AHMEDABAD

Case No. 21-001-0788-12

Smt. Amitaben Prajapapti Vs. SBI Life Insurance Co. Ltd.
Award dated 24th April 2013
Repudiation of Death Claim

Complainant's deceased husband was covered a Group Insurance on 1-11-2011 for S.A Rs.1.00 and died on 11-5-2012. Death claim lodged was repudiated by the Respondent stating that the DLA was suffering from Heart disease prior to inception of policy which was not disclosed in the proposal form. Duration of policy was only 6 months and 10 days.

Available documents of Hospital papers shows the DLA underwent Heart valve replacement in 2010 and related treatment was taking regularly which was pre-existing disease.

Considering all, the Respondent's decision to repudiate the Death Claim is upheld and complaint dismissed.

Case No.21-002-0039-13
Smt. Jyotsanaben G. Patel Vs. S.B.I Life Insurance Co. Ltd.
Award dated 25th April 2013
Repudiation of Death Claim under Group Master Policy

The death claim of the complainant's deceased husband was repudiated by the Respondent on the basis of indisputable evidence which proves that the DLA was suffering from Tuberculosis to the date of enrollment of policy.

The date of commencement of risk was 25-03-2011 and date of death was 27-05-2011.

The Complainant was not aware of her deceased husband's previous illness was not acceptable by this Forum. Hence Complaint dismissed.

Case No.21-001-0036-13
Mr. Bharatbhai P. Humbal Vs. LIC of India
Award dated 22nd April 2013
Repudiation of Death Claim

A Death claim lodged by the complainant for S. A. Rs.10,00,000/-for death of his 22 years old wife was repudiated by the Respondent stating that the deceased female died due to unnatural death and as the policy was issued with clause 4B, the policy has become null and void in terms of the policy contract hence nothing is payable under the subject claim. Refund of premium will be paid by branch office.

As Police Report, death occurred due to Cardio respiratory arrest on account of electrocution. The DLA's occupation was Beauty Parlour in own house and allowed her to

operate a Motor Pump installed in their Farm land without safety measures. Duration of policy is 2 months and 1 day.

Looking to all the Respondent's decision is upheld and complaint dismissed.

AHMEDABAD CENTER

Case No.21-001-0037-13

Smt. Mallika Kuppuswamy Vs. Life Insurance Corporation of India
Award dated 22nd April 2013
Repudiation of Death Claim

A death claim lodged by the complainant for her deceased husband was repudiated by the Respondent on the ground of non disclosure of material facts of his health.

Death was due to cardiac arrest and the DLA was working as Gangman in Railway since last 25 years, death occurred on duty of service. Policy incepted in February 2009 and death occurred on 30-04-2011.

Respondent could not produce the documentary evidence to prove non disclosure of material facts of DLA's health.

Looking to all the Respondent's decision to repudiate the death claim is set aside and directed to make payment under intimation to this forum.

AHMEDABAD CENTER

Case No.21-001-0038-13

Shri Kaushikkumar K. Patel Vs. Life Insurance Corporation of India
Award dated 24th April 2013
Repudiation of Death Claim

A death claim lodged by the complainant for his deceased mother was repudiated by the Respondent on the ground of non disclosure of material facts of her health.

Further at the time of inception of policy, the DLA'S husband was alive then also the nomination given her major son which is creating doubts. She was insured Rs.1.00 Lac in addition to old policy whereas her husband was having policy of Rs.50,000/- only.

DLA's first policy incepted in 2005 which was settled by the Respondent and second policy incepted in 21st January 2011 and date of death was 5th November 2011, duration of policy was only 9 months and 11 days.

Looking to all Respondent's decision is upheld and complaint dismissed.

AHMEDABAD CENTER

Case No. 21-014-014L

Shri Ganpathbhai S. Patel V/s. Life Insurance Corporation of India
Award dated :18.09.2013
Partial settlement of Death Claim:

Complainant's son's death claim partially settled by the Respondent for Rs.62,500/-. Insured was covered under three polices out of which in one policy claim was paid. In rest of two policies claim was rejected by the insurer on the grounds of non-disclosure of pre-proposal history of suffering from ulcer in left lower GBX, which was diagnosed as symptom of cancer at later stage. DLA was having habit of tobacco chewing for last 10 years. It has been observed from the claim papers, that the cause of death is direct complication of ulcer and tobacco chewing for long period.

In the result complaint fails to succeed.

AHMEDABAD CENTER

Case No. 21-005-0020-13

Shri S K Shah V/s. HDFC Standard Life Ins.Co.Ltd.
Award dated :24.09.2013
Refund of Premium

Complainant took policy for his daughter and paid premium for Rs. 50,000/-, for Sum Assured of Rs. 3,26,146/-. unfortunately his daughter committed suicide immediately after taking policy. Insured lodged claim only for refund of the premium and not for the entire sum assured. The claim was rejected on the grounds of "within one year refund of premium is not admissible. The complainant pleaded for refund of premium as special case in view of death of his daughter aged 22 years who was insured for Rs.3,26,146/-. His plea for refund of premium cannot be accepted in view of the terms and conditions of the policy.

In the result complaint fails to succeed.

AHMEDABAD CENTER

Award Dated 21.06.2013
Case No. 21-001-043-13
Smt Vimla H Shah V/S LIC of India
Life- Death claim- Full repudiation

The claim was repudiated as the deceased had withheld material information regarding his health while taking insurance.

The decision of the Respondent was upheld.

AHMEDABAD CENTER

Award Dated 12.06.2013
Case No. 21-012-044-13
Smt Kamla D Rathod V/S LIC of India
Life- Death claim- Full repudiation

The claim was repudiated as the deceased had withheld material information regarding his previous insurance as well as mislead the company by giving wrong information at the time of taking insurance.

The decision of the Respondent was upheld.

AHMEDABAD CENTER

Award Dated 05.06.2013
Case No. 21-001-041-13
Smt Kalpana H Chauhan V/S LIC of India
Life- Death claim- Total repudiation

The claim was repudiated as the deceased had withheld material information regarding his health while taking insurance and also policy was in lapsed condition at the time of death.

The decision of the Respondent was upheld.

AHMEDABAD CENTER

Award Dated 25.06.2013
Case No. 22-001-050-13
Sri Hitesh P Brahmabhatt V/S LIC of India
Life- Death claim- Full repudiation

The claim was repudiated as the deceased had withheld material information regarding her health while taking insurance.

The decision of the Respondent was upheld.

AHMEDABAD CENTER

Award Dated 21.06.2013
Case No. 21-001-043-13
Smt Vimla H Shah V/S LIC of India
Life- Death claim- Full repudiation

The claim was repudiated as the deceased had withheld material information regarding his health while taking insurance.

The decision of the Respondent was upheld.

AHMEDABAD CENTER

Award Dated 11.06.2013
Case No. 21-004-042-13
Smt S R Pardeshi V/S ICICI Prudential Life Insu Co Ltd
Life- Death claim- Full repudiation

The claim was repudiated as the deceased had withheld material information regarding his health while taking insurance.

The decision of the Respondent was upheld.

AHMEDABAD CENTER

Case No. 22-001-051-13
Sri Shaunak T Patel V/S LIC of India
Award Dated 21.06.2013
Life- Accident Death Benefit- Full repudiation

The accidental death claim was repudiated as death was due to accidental fall due to giddiness, headache since morning. So proximate cause of the death was not accident, but deteriorated health.

The decision of the Respondent was upheld.

BHOPAL CENTRE

OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Smt. Suman Pareek…… Complainant

V/S

Max Life Insurance Co. Ltd……..Respondent

Order No. BPL/LI/ 13-14/003 Case No. LI/MAX/384-21/03-10/GUR

Brief Background:

Complainant's son Late Kuldeep Pareek had life insurance policy under "Life Line-Safety Net" Plan for 10 yrs for Sum Assured 14 lacs (Fourteen Lacs Only) from Max New York Life Insurance Co. Ltd. at Ujjain (M.P.) bearing policy no. 352673362 with having effective date of coverage 29.04.2008.

As per the complaint the son of the complainant Late Kuldeep Pareek had taken insurance policy from Max New York Life Insurance Co. Ltd. vide policy no. 352673362. The policy was given to agent / advice Mr. Amit Pahwa in the month of March 2008, while he was in Indore on 15.03.2008 & due to agent's mistake, the same was submitted in the month of April 2008 and which was issued in the month of April 2008 & it is further said that the son of complainant Late Kuldeep Pareek expired on 21.06.2008 due to Acute Pancreatitis after suffering from more than 3 months, he was admitted on 21.03.2008 to 21.06.2008 & died on 21.06.2008 while he was in COMA & the complainant made expenses more than Rs. 20 to 30 lacs but he could not be saved & she lodged the death claim to the above said Insurance Company in the month of June but the Company declined to make the payment of the claim on the ground of pre-existing disease.

Being aggrieved with the action of the respondent, the complainant lodged the complaint to the Insurance Ombudsman, Mumbai & from where she received a letter that her complaint has been transferred at Bhopal & the said complaint was registered in this office on 26/03/2010 & a letter was sent to the complainant to submit detail complaint with enclosed P2 & consent for mediation in Proforma P3 & letter was also sent to the Respondent the said Insurance Company for submitting Self-Contained Note & for giving consent regarding mediation by the Ombudsman & accordingly the Complainant submitted duly filled Proforma P2 & P3 along with documents & the Respondent also submitted the Self-Contained Note (Written Version on behalf of Respondent) in which the Respondent has clearly denied all the averments & contention made by the complainant in the complaint except which are specifically admitted & it has also been contended in the said version of the Respondent that there was suppression of material fact regarding the health of deceased Life Insured (the DLI) before & after filing the proposal & before Issuance of policy document & the DLI was admitted in Mumbai Hospital on 21.03.2008 i.e. prior to signing the proposal form & was operated on 07.04.2008 for Acute Necrotizing Pancreatitis after signing the proposal form but before Insurance of policy contract & which was not disclosed at the proposal stage nor before the issuance of policy contract. The DLI had answered the questions pertaining to his health condition in negative & it is further contended by the Respondent that the said

policy was issued having commencement date 29.04.2008 for Assured amount of Rs. 14 lacs along with the CI, TPD & Accidental Death Benefit for a SA of Rs. 7 lacs & after submitting all the documents by complainant, the Respondent found that DLI was suffering from Acute Pancreatitis before Insurance of the said policy & as such the claim of the complainant was repudiated on grounds of material medical non-disclosure on part of DLI before Insurance of the said policy & as per terms & conditions of the policy contract if there was any concealment, non-disclosure, mis-representation or fraud by the policyholder then the policy could be liable for cancellation & company can avoid all or any liability & may also forfeit the premiums & also contended that the above policy was cancelled on the grounds of material non-disclosure prior to issue of policy & prayed to dismiss the complaint.

After filing of the said Self-Contained Note (Written Version on behalf of the Respondent dt. 10.06.2010) which was received in this office on 16.06.2010, the Respondent the said Insurance Company has also sent a letter dt. 04.03.2013 which was received on 13.03.2013 mentioning therein that the Respondent would not like to contest this case & would prefer to settle the complaint by paying the base claim by Rs. 14 lacs (Fourteen Lakhs Only) & has prayed to pass an appropriate award for the Complainant. It has also been specifically mentioned in the above letter that this letter supersedes all prior communication between this office & us including the filing of Self-Contained Note in response to the complaint.

For the sake of natural justice, the case was fixed for hearing on 19.06.2013 at Bhopal. But on date of hearing i.e. on 19.06.2013, the complainant presented herself but the Respondent was absent & no representative on behalf of Respondent turned up for hearing inspite of giving information through Regd. Post. At the time of hearing, the complainant also filed an application mentioning therein that she received the copy of the letter dt. 04.03.2013 accepting offer for payment of base claim of Rs. 14 lacs (Fourteen Lacs Only) by the Respondent & she has prayed to pass an award for making payment of the said amount of Rs. 14 lacs (Fourteen Lacs Only) as full & final settlement.

The complainant was heard. No contention has been advanced on behalf of Respondent Insurance Company & nobody appeared on behalf of Respondent at the time of hearing to deny the above offer.

OBSERVATIONS:

I have gone through the material on record & submission made by the complainant during hearing & my observations are summarized below:-

There is no dispute that the son of the complainant Late Kuldeep Pareek was covered under the above mentioned policy & since, after filing of the written version as Self-Contained note on behalf of Respondent, the Respondent also sent a letter to this office mentioning therein that the Respondent would not like to contest this case & prefer to settle the complaint with the Complainant by paying the base claim of Rs. 14 lacs (Fourteen Lacs Only) with the prayer to pass an appropriate award about this complaint, so it is crystal clear that the Respondent expressed his willingness & he is ready to settle the complaint by paying the base claim of Rs. 14 lacs (Fourteen Lacs Only) to the complainant & the complainant has also accepted the offer of the respondent Insurance Company & ready to accept the said amount of Rs. 14 lacs (Fourteen Lacs Only) as full & final settlement & a petition to this effect has also been filed by the complainant at the time of hearing, so it is needless to go in to the merit of the case as Respondent is ready to settle the claim & to make payment of the base claim of Rs. 14 lacs (Fourteen Lacs Only).

In view of the above facts, circumstances stated above, I am of the considered view that on the basis of the offer given by the Respondent Insurance Company to the Complainant regarding settlement & payment of the base claim, the complainant is entitled to get an award towards the claim made by her in the complaint from the Respondent Insurance Company.

Hence, the Respondent is directed to settle the claim for Rs. 14 lacs (Fourteen Lacs Only) under the said policy & make payment of the said amount within15 days from the

receipt of the consent letter from the complainant failing which it will attract a simple interest of 9% p.a. from the date of this order to the date of actual payment.

Let a copy of order be sent to the Complainant and the Insurance Company.

Dated at BHOPAL on 20th day of June, 2013 **(R.K. SRIVASTAVA)**

INSURANCE OMBUDSMAN

BHOPAL CENTER

OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL

Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Ram Kala Bai Nagar.. .. ..Complainant

VS.

Life Insurance Corporation of India..... Respondent

Order No. BPL/LI/13-14/014 **Case No. LI/LIC/381-20/03-10/BPL**

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

The husband of the complainant Late Badri Lal Nagar had taken LIC Money Plus policy bearing no. 353338563 for sum assured Rs. 1 lac for yearly premium of Rs. 10,000/- for 20 years commencing from 20.07.2007 and the policy document was issued by the insurer.

As per complaint, the husband of the complainant died on 13.06.2008 at the time of performance of his duty due to electric current and there was no co-relation of his

disease with his death but after making the claim for sum assured of Rs. 1 lac to the LIC Bhopal, the Respondent Insurance Company rejected her claim on the ground that her husband was suffering from some ailment and if the facts of ailments would have been given in the proposal form and special medical report would have been called for, then the decision certainly would have been affected and further said that since the death was caused due to electric current as an accident and was not co-related with any ailment as her husband was of sound health and was working on his duty and he had not taken any leave for the last 6 months of his death but the Respondent company rejected her claim.

Being aggrieved from the action of the Respondent, complainant lodged the complaint on 07.03.2010 in this office which was registered on 23.03.2010. The required forms were issued to complainant and letter was sent to respondent to submit the self-contained note and both the parties submitted the required forms and self-contained note accordingly.

The Respondent in its self-contained note has admitted the date of commencement of policy w.e.f. 20.07.2007 and also contended that the Life Assured was suffering from Infective Hepatitis prior to his proposing for insurance and he had availed leave on medical ground for 43 days from 01.04.2006, 28 days from 04.07.2006, 64 days from 27.08.2006, 22 days from 08.03.2007 for Infective Hepatitis which was revealed from Medical Certificate submitted by the deceased Life Insured but the prior illness was not mentioned by the deceased Life Assured in his proposal for insurance dt. 14.07.2007 and had these facts been disclosed at the time of making proposal for insurance, the decision to accept the proposal would have altered and as such the claim was repudiated due to suppression of material facts.

For the sake of natural justice, hearing was held on 10.07.013 at Bhopal and sincere efforts were made during mediation to resolve the subject matter of the complaint i.e. the claim of Rs. 1 lac, the complainant Smt. Ram Kala Bai Nagar as well as the Respondent Ms. Mohini Vaidya, AO (Claims) and Sh. R.P. Verma, AO (L&HPF) of the respondent Company

were heard but respondent was not ready to settle the subject matter of the complaint on the ground of bar of the policy conditions.

OBSERVATIONS:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the husband of the complainant Late Badri Lal Nagar was covered under the LIC Money Plus Policy for Sum Assured of Rs. 1 lac on yearly premium of Rs. 10,000/- for 20 years and the policy commenced on 20.07.2007 and the date of commencement of risk was also dated 20.07.2007 and accordingly after making payment of premium, the policy document was issued subject to terms and conditions of the policy to the husband of the complainant. It is also admitted fact that the husband of the complainant Late Badri Lal Nagar died on 13.06.2008 due to electric current on account of accident. The said policy was received subject to terms and conditions of the insurance policy by the Life Assured.

From the close perusal of Proposal form, it is apparent that the Life Assured of complainant has clearly answered the question no. "A" that during the last 5 years "Did you consult a medical practitioner for any ailment requiring treatment for more than a week and the answer given by the deceased Life Assured as "No" and he had also answered "No" for Q.No. C i.e. absent from place of work on grounds of health during the last 5 yrs and has answered "No" about Q.No. D about ailment pertaining to liver, stomach or lungs, kidney, brain or nervous system. Thus it is clear from the proposal form duly signed by the deceased Life Assured that the deceased Life Assured has answered the above questions related to his health as well as absent from duty in "negative" while from the perusal of the xerox copy of the medical certificate issued by the doctors regarding recommendation of leave to the deceased Life Assured submitted by the Respondent Company shows the said period of absence on duty due to Infective Hepatitis which clearly establishes that the husband of the complainant had suffered several times for Infective Hepatitis which was related to the ailment of liver and which has been concealed by the deceased Life Assured in the proposal form, though the Respondent Company has

not filed any other document or treatment paper to show that the deceased Life Assured was also treated for the said Infective Hepatitis in the said hospital/ dispensary but the certificate issued by the doctor's regarding recommendation of leave and fitness cannot be lost sight off but at the same time the death on account of accidental electric current has not been denied or challenged by the Respondent company and as per policy document, the date of commencement of the risk has been shown as effective from 20.07.2007.

During course of hearing, the complainant reiterated the facts as stated in the complaint and laid emphasis about the death caused due to electric current which was purely accidental whereas the Respondent has laid emphasis about the fact that the complainant is not entitled for claim on account of concealment of material facts regarding the serious ailment of liver in the proposal form.

No doubt the husband of complainant was under insurance cover of Rs. 1 lac but either due to inadvertence or any other factor, the said material fact has not been mentioned in the proposal form which creates the restriction of the bar for entitlement of the claim of the complainant on account of death of her husband Late Badri Lal Nagar but death was caused due to electric current and not by any liver ailment.

1. **Hence in the light of the above facts and circumstances, submissions made and material on record and contentions made by both the parties, I am of the considered view that to meet the ends of justice it is just and proper to direct the insurer i.e. the Respondent the said insurance company to make payment of Rs. 50,000/- (Fifty Thousand) Only as ex-gratia by invoking provisions of rule 18 of the Redressal of Public Grievances Rules, 1998 on humanitarian grounds and hence the insurer, the Respondent LIC of India, Bhopal is directed to pay Rs. 50,000/- (Fifty Thousand) Only as ex-gratia to the complainant within 15 days from the date of receipt of acceptance letter from the complainant failing which it will attract a**

simple interest of 9% p.a. from the date of this order to the date of actual payment.

2. **Both the parties shall bear their own cost of proceeding in this forum.**

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 10th day of July, 2013 **(R.K. SRIVASTAVA)**
INSURANCE OMBUDSMAN

BHOPAL CENTER

OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Smt. Bhawna Bhojwani .....Complainant

VS.

Life Insurance Corporation of India.....Respondent

Order No. BPL/LI/13-14/ **Case No. LIC/37-21/05-10/BPL**

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This complaint has been filed by the complainant Smt. Bhawna Bhojwani wife of late Manohar Lal Bhojwani against proposal no. 8772 dt. 06.01.2010 given by respondent LIC praying therein to allow her claim for sum as per the terms of policy proposed for which first premium was paid on 01.01.2010.

As per complaint, her husband Late Manohar Lal Bhojwani after extensive persuasion by LIC Agent Shri Arvindra Singh Thakur and LIC Dev. Officer Shri Bittan had agreed to take life insurance policies for all five members of her family i.e. Husband Manohar Lal Bhojwani, the complainant herself, Daughters Ms. Sangeeta Bhojwani, Ms. Jyoti Bhojwani and Son Master Deepak Bhojwani and the total premium of Rs. 3550/- was paid by her late husband to LIC Agent Shri Arvindra Singh Thakur in cash in her presence at her residence on 01.01.2010 and all the five members had filled up and signed the insurance proposal form on the same day and it appeared that LIC Agent had submitted proposal forms along with premium amount at LIC office in respect of her three children as they were non-medical cases and three payment receipts no. 1347158, 1347159, 1347160 all dated 04.01.2010 for the same were issued and delivered by him at her residence and subsequently three LIC policies no. 353963399, 363963400, 353963401 were also issued on 13.01.2010 for her three children which were sent by Regd. Post. It is further said that the LIC proposal for her husband needed a detailed medical examination including ECG etc. and LIC agent had fixed up the medical examination on 06.01.2010 with Dr. Gulati. Her husband had attended the medical examination in presence of LIC Agent and medical examination was successful and was completely normal and LIC Agent collected the medical report and submitted to LIC, B.O. Berasia Road, Bhopal and got the same forwarded to LIC's Bhopal Division and got the proposal no. assigned as 8772 dt. 06.01.2010. In the meanwhile cruel destiny of nature occurred and her husband met in a road accident around 14.30 hrs on 06.012010 near Chetak Bridge crossing Govindpura Bhopal as a school bus no. MP09-KC-4421 hit him from back and he was immediately rushed to Narmada Trauma Centre and Hospital at Habibganj Naka Bhopal where he was declared as brought dead and after a gap of 3 months the LIC Bhopal Division has taken a stand that no premium or advance deposit has been received by LIC before death of proposer and hence being unconcluded contract, LIC was not liable to entertain any claim under the said proposal. It is further said that her late husband used to maintain a diary

in his own handwriting with details all daily household expenditure which was written upto 05.01.2010 a day before his death which is available with her as evidence and the diary contains an entry for payment of Rs. 3550/- to LIC Agent on 01.01.2010. It is also said that Shri Bittan LIC Dev. Officer came to her house about a month after the death of her husband and had forcefully returned Rs. 1000/- in cash against the premium paid Rs. 1021/- without her consent against her proposal which was done in presence of Mrs. Madhu Khatri who is ready to stand witness and since he was not agreed to accept the money of Rs. 1000/-. Mr. Bittan Dev. Officer sent Mr. Arvindra Singh Thakur, LIC Agent to recollect back Rs. 1000/- from her some two days later which was collected by him at her residence in presence of Mr. L.C. Khatri who is also ready to stand as a witness. It is further said that LIC Agent Shri Thakur had retained with him two premium of Rs. 1021/- (for Late Manohar Lal Bhojwani for medical examination and approval of proposal) and also another Rs. 1021/- (for herself, for her husband proposal to conclude since she was a non-matriculate) and the above practice by LIC agent was against the LIC departmental procedure and norms and he did the same for his operational convenience at the "all risk of ours" and had he deposited a balance amount Rs. 1021+Rs. 1021 = Rs. 2042/- collected from them on 01.01.2010 upto 06.01.2010, her claim settlement would have been simple and smooth but the family has to suffer for a criminal lapse and gross negligence on the pat of LIC Agent Mr. Arvindra Singh Thakur and the above officer were also trying to shield the LIC Agent . It is further said that since her late husband Shri Manohar Lal Bhojwani had completed all his responsibilities by signing the LIC proposal, paid the premium, attended his medical examination successfully having sent the proposal to LIC Divisional Office, Branch Office and Proposal No. 8772 was assigned but inspite of assignment of the proposal number the respondent LIC of India did not agree to entertain her claim on the ground of unconcluded contract.

Being aggrieved from the action of the Respondent Life Insurance Corporation of India, the complainant filed a complaint dt. 04.05.2010 which was received in this office on 10.05.2010 for settlement of her claim as per the terms of policy proposed for which first premium was paid on 01.01.2010 which was retained by LIC Agent on account of death of her late husband Manohar Lal Bhojwani and which has been registered on

12.05.2010 and prescribed forms were issued to the complainant & letter was also sent to the Respondent for filing Self-Contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note respectively.

The Respondent has contended in his self-contained note vide letter dt. 21.06.2010 that the proposal on the life of late Manohar Lal Bhojwani was submitted at the branch on 04.01.2010 and the policyholder died on 06.01.2010 in a road accident. However no premium and advance deposit has been received by LIC before death of proposer and hence being a unconcluded contract of insurance, the claim was not liable to be entertained and the respondent has clearly mentioned the ground for repudiation as unconcluded contract in self-contained note.

For the sake of natural justice, hearing was held on 01.08.2013 at Bhopal and sincere efforts were made during course of hearing to settle the dispute from mediation but the respondent was not ready to settle the claim on the ground of unconcluded contract. The complainant Mrs. Bhawna Bhojwani who presented herself and assisted by Shri L.C. Khatri as well as Smt. Mohini Vaidya and Shri R.P. Verma represented on behalf of the respondent LIC were heard.

It has been submitted on behalf of complainant that since the premium amount was paid to the agent and medical examination was also done of her late husband who was found normal and proposal no. was assigned but unfortunately before issuance of policy, her husband met in a road accident and died on 06.01.2010 and it was the responsibility of LIC Agent Shri Arvindra Singh Thakur to deposit the same in the LIC office and LIC was bound for all the acts done by the agent on behalf of LIC and liable for making her claim as per terms and conditions of the proposal and laid emphasis that the proposer or her legal representative should not suffer for gross negligence on the part of LIC Agent Shri Arvindra Singh Thakur and other officials of the LIC and the payment of the first premium amount is evident from the entry made by her late husband in his own handwriting in a diary maintained by him till 05.01.2010 which may be produced as evidence . On the other hand, the representative of the respondent company laid

emphasis that since there was requirement of medical examination of the husband of the complainant after filing the proposal and the medical report had been shown as done on 03.01.2010 while it has been mentioned on dt. 04.01.2010 on the proposal form itself and also submitted that since there was no deposit of the premium in the LIC office, so there was no contract between the proposer and the respondent company and the contract was remained unconcluded, so the complainant is not entitled for any claim and also submitted that the LIC Agent is not authorized to collect any money or to accept any risk on behalf of corporation to bind the corporation and he may only collect and remit renewal premium and as such the respondent company is not bound by the act of agent regarding collection of any money unless the same is deposited in the concerned office and policies issued after satisfaction of the respondent on the basis of medical examination if required of the proposer.

OBSERVATIONS:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the husband of the complainant Late Manohar Lal Bhojwani had filed in a proposal form on 01.01.2010 for sum assured Rs. 250000/- and the LIC Agent bearing code no. 6086-351 and the proposal no. 8772 was also given by the respondent LIC but from the perusal of the certified copy of the proposal form it transpires that some medical examination for ECG etc. was required as such it was endorsed on the proposal form on 04.01.2010. The certified copy of the ECG including clinical findings and blood sugar tolerance report of late Manohar Lal Bhojwani clearly shows that the husband of the complainant the said proposer was medically examined on 03.01.2010 while the endorsement for required medical examination has been done on 04.01.2010 as appears on the above proposal form as such the medical examination reports are clearly antedated i.e. done before 04.01.2010 which reflects the hard-haste action of the agent for the reasons best known to the agent of the LIC. From perusal of the letter dt. 06.01.2010 issued by LIC Branch CBO-I to the proposal no. 8772 dt. 06.01.2010 clearly shows that no amount has been mentioned in the said letter except the proposal and it

has also been mentioned that the proposal has been sent to higher office for underwriting decision and they shall revert to him soon in the matter which clearly shows that there was no any deposit or remittance of premium amount in the concerned branch office by/on behalf of the proposer. It has also been clearly mentioned in the above letter "This is just an acknowledgement of your proposal and does not in any way constitute acceptance or commencement of risk". From perusal of the certified copy of the proposal review slip it transpires that in the column there is no deposit towards the premium amount as no amount has been mentioned against total deposit and it has also been mentioned that as per telephonic communication on 08.01.2010 policyholder expired. Thus from the above document, it is clearly established that amount of first premium or any advance after submitting the proposal form was not deposited by or on behalf of the proposer in the respondent company the LIC. Section 64 VB of Insurance Act, 1938 clearly provides that no insurers shall assume any risk in India in respect of any insurance business on which premium is not ordinarily payable outside India unless and until the premium payable is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed or unless and until deposit of such amount as may be prescribed is made in advance in the "PRESCRIBED MANNER'' and sub section 2 clearly provides that in the case of risk for which premium can be ascertained in advance, the risk may be assumed not earlier than the date on which the premium has been paid in the cash of by cheque to the insurer. The explanation clause also provides "where the premium is tendered by postal money order or cheque sent by post, the risk may be assumed on the date on which the money order is booked or the cheque is posted as the case may be. Sub-clause 4 provides that where an insurance agent collects a premium on a policy of insurance on behalf of an insurer, he shall deposit with or dispatch by post to the insurer, the premium so collected in full without deduction of his commission within 24 hours of the collection excluding bank and postal holidays. The sub-rule 4 of 8 of LIC Agent Regulation 1972 provides that nothing contained in these regulations shall be deemed to confer any authority on an agent to collect any money or to accept any risk for or on behalf of the corporation or to bind the corporation in any manner whatsoever provided that an agent may be authorized by the corporation to collect and remit renewal premium under policies on such conditions as may be specified.

Thus from the provisions of above regulations, it is also clear that the agent are not authorized to collect any money on behalf of corporation or to accept any risk except to collect and remit renewal premium.

From the material on record it is found that the first premium receipt has been issued for the three children of the complainant on 04.01.2010. From perusal of the certified copy of explanation submitted by the Mr. Arvindra Singh Thakur the concerned LIC Agent after issuance of show cause to him in connection with receipt of premium amount from the late husband of the complainant Late Manohar Lal Bhojwani on 01.01.2010, it transpires that the said agent has clearly denied about receiving any premium amount from the proposer Late Manohar Lal Bhojwani about himself as well as his wife rather the agent has mentioned in his explanation that premium amount was demanded only for complainant's son and two daughters which was deposited and receipts were given and he has not received any premium amount from the Bhojwani family i.e. the complainant and late her husband while on the other hand there is allegation of giving premium amount for complainant's late husband as well as complainant giving reliance on the entries made in the personal diary of deceased proposer and it certainly requires proof by adducing oral as well as documentary evidence. On the basis of record which is placed before me, it is established that unless the proposal is accepted by the respondent it cannot be converted into a contract and since the proposal was not accepted by the respondent company for want of deposit of first premium amount as well as required medical examination reports which was to be done after direction/order dt. 04.01.2010 as made on the proposal form, so the contract remained unconcluded. Thus I find no force in the contention of the complainant regarding payment of any claim on the basis of only furnishing proposal no. 8772 on 01.01.2010.

Since the contract was not complete between both the parties i.e. complainant's late husband
Manohar Lal Bhojwani and the respondent LIC so to my mind, the respondent company cannot be held liable to make the claim as made by the complainant on the basis of terms

and conditions of the proposal form and since there is some complicated question of fact as well as rules and regulations for issuing policy and for which I am of the considered view that necessary evidence (oral and documentary) is required to be adduced to decide the issue of making payment of the first premium amount through the concerned agent Shri Arvindra Singh Thakur and liability of the respondent company for issuing the policy after submitting proposal form and this forum cannot appreciate the detail facts without placing the entire material by adducing evidence, therefore no relief can be given by this forum to the complainant.

For sake of natural justice, the complainant is advised to take any other redressal forum considered appropriate for the resolution of subject matter of grievance. This case stands dismissed.

Both the parties shall bear their own cost of proceeding.

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 05th day of August, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN

Bhopal CENTER

OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Smt. Choti Bai……Complainant

VS.

Life Insurance Corporation of India……..…Respondent

Order No. **Case No. LIC/137-20/08-10/BPL**

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This complaint has been filed by the complainant Smt. Choti Bai after death of her insured husband Late Ram Kishan Ahirwar who was covered under Money Back Policy bearing no. 352008071 with Date of Commencement 15.10.2003 for Sum Assured of Rs. One lac for period of 20 years issued by LICI praying therein to allow her complaint for death claim amounting Rs. One lac + Bonus as per policy.

As per complaint, the husband of the complainant Late Ram Kishan Ahirwar had taken a Money Back Policy bearing no. 352008071 for Sum Assured of Rs. One lac on quarterly premium of Rs. 1720/- which commenced on 15.10.2003 and the complainant Smt. Choti Bai the wife of the insured was made nominee by the Life Assured and the above said policy was also revived in the month of June'2007 on the basis of fresh proposal form duly signed and submitted by the Life Assured on 29.06.2007. It is further said that the husband of the complainant Late Ram Kishan Ahirwar expired on 11.09.2009

in Jawahar Lal Nehru Cancer Hospital and Research Centre, Bhopal and therefore the complainant lodged the claim to the respondent LICI but the respondent company repudiated the claim of the complainant on the ground of non-disclosure of material facts at the time of revival of the policy.

Being aggrieved from the action of the Respondent LICI, the complainant lodged the complaint on 28.07.2010 before this forum seeking direction to allow her application (complaint) regarding death claim of her late husband and to direct the Respondent Insurance Company to make payment of claim amount on the basis of the policy and the complaint was registered in this office on 05.08.2010 and prescribed forms were issued to the complainant & letter was also sent to the Respondent for filing Self-Contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note respectively.

The Respondent has mentioned in Self-contained note that the policy was revived on 30.06.2007 after paying 11 quarterly installments due from Oct'2004 to Oct'2007 and the case history obtained from Jawahar Lal Nehru Cancer Hospital and Research Centre, Bhopal confirmed that the deceased life assured was on ATT from 04/2006 till 04/2007. The Policy was revived during this period and the illness and the treatment being undertaken for the same were not disclosed during revival of the policy and had the illness been disclosed, our decision to revive the policy would have altered and as such, death claim has been repudiated due to non-disclosure of material facts.

For the sake of natural justice, hearing was held on 30.08.013 at Bhopal and sincere efforts were made during mediation to resolve the dispute i.e. death claim of the husband of the complainant amounting Rs. One lac with bonus, but the respondent company was not ready to settle the dispute on the basis of mutual agreement due to non-disclosure of material facts. The complainant Smt. Choti Bai assisted by her sister's son Mr. Rahul who presented themselves as well as Smt. Mohini Vaidya and Shri R.P. Verma the representatives on behalf of the respondent Company were heard.

It has been stated by the complainant as well as her sister's son who assisted the complainant that the Late Ram Kishan Ahirwar died on 11.09.2009 who was insured under the above said policy for Sum Assured Rs. One lac but after his death, the death claim was not paid to the complainant and was rejected on the ground of non-disclosure of her previous illness and treatment for Tuberculosis while the DLA was in good health at the time of revival of the policy and nothing material fact was concealed in the proposal form for revival and as such the complainant is entitled for the death claim of her late husband on the basis of policy. On the other hand, the representative on behalf of respondent Insurance Company have refuted the contention of the complainant and submitted that since the DLA had ailment of tuberculosis in his lung and had undergone treatment for one year from April'2006 to April'2007 as apparent from the clinical history and case summary of Jawahar Lal Nehru Cancer Hospital and Research Centre, Bhopal but the DLA intentionally did not disclose above mentioned facts in the proposal form duly signed and submitted on 29.06.2007 for revival of his above said policy and clearly answered "No" about the ailment of tuberculosis, Asthma and related to lungs and also answered in "No" about undergoing any treatment for any ailment for more than a week against serial no. 2 (1) & 2 (7) of the proposal form and has also answered Very Good about the condition of his health and thereby suppressed and not disclosed the above material facts to consider for revival by the insurer and has violated the norms of "Utmost Good Faith" and thus violated the terms and conditions of the policy by not disclosing the material facts in the proposal form for revival as such the complainant was not entitled for any death claim as per policy document and the death claim has been repudiated.

<u>OBSERVATIONS</u>:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the husband of the complainant Late Ram Kishan Ahirwar was covered under Money Back Policy bearing no. 352008071 for Sum Assured of Rs. One lac on 15.10.2003 on the basis of his proposal form dt. 14.10.2003 and after making payment of quarterly premium Rs. 1720/-, the policy was issued by the

Respondent LICI on the quarterly premium of Rs. 1720/- for a term of 20 years with the date of maturity on 15.10.2023 which was received by the DLA subject to terms and conditions of the policy. It is also admitted fact that the said policy was revived on 30.06.2007 on the basis of submission of the fresh proposal form on 26.06.2007 duly signed by the DLA Late Ram Kishan Ahirwar after making payment of due 11 quarterly premiums and accordingly the policy was revived on original terms. It is also admitted fact that the DLA Late Ram Kishan Ahirwar was hospitalized in Jawahar Lal Nehru Cancer Hospital and Research Centre, Bhopal and who died on 11.09.2009 showing the exact cause of death of lung cancer. It is also admitted fact that the death claim of the husband of the complainant has been repudiated by the respondent company on the ground of non-disclosure of material facts in the declaration of good health in the proposal form duly signed and filled on 29.06.2007 at the time of revival.

From perusal of the proposal form for revival of the said policy, it transpires that the DLA had answered "No" against the serial no. 2 (1) which is related to suffering from ailment of Asthma, Tuberculosis or lungs related ailment and had also answered "No" against Serial No. 2 (7) which was related about undergoing any treatment for any disease for more than a week and the DLA had also mentioned the word Very Good against Serial no. 4 which is related to his health and the DLA had clearly made his signature in English below the declaration which clearly provides that if any statement is found false then the contract will be cancelled completely and the entire amount paid in this regard would be forfeited by the Corporation.

From perusal of the clinical history and other hospital documents attached with case history issued by Jawahar Lal Nehru Cancer Hospital and Research Centre clearly shows that the DLA was on ATT from April'2006 to April'2007 and it has also been clearly mentioned in clinical history for the present illness showing him recurrent plural effusion even after a course of ATT which means that the DLA was not even completely cured even after treatment of one year for ailment in the lung i.e. anti-tuberculosis treatment and the DLA was completely in know of the naked fact that he had tuberculosis treatment as well

as ailment of lung and was also undergone for the anti-tuberculosis treatment for one year during period April'2006 to April'2007 and he submitted his proposal form duly signed by him on 29.06.2007 just after 2 months after his said treatment of tuberculosis and deliberately and intentionally gave answer "No" regarding his said ailment as well as undergoing treatment for more than a week and also had given false information showing his health as "Very Good" at the time of revival only to get the policy revived and further claim in case of any mis-happening and the complainant failed to satisfy the reasons for not giving said material information regarding his health condition as well as said ailment at the time of revival of the policy.

As per terms and conditions of the policy document, "in case it is found that any untrue or incorrect statement is contained in the proposal, personal statement, declaration and connected documents or any material information is withheld then and in every such case but subject to provisions of Section 45 of Insurance Act, 1938 wherever applicable, the policy shall be void and all claims to any benefit in virtue thereof shall cease and determine all moneys that have been paid in consequence thereof shall belong to the Corporation."

The word "material" means and include all important, essential and relevant information in the context of guiding the insurer to decide whether to undertake the risk or not and on the basis of entire discussion, to my mind, in a contract of insurance any fact which would influence the mind of insurer in deciding whether to accept or not to accept the risk is a "material fact" and if the proposer has knowledge of such fact he is under obligation to disclose it while answering question in the proposal form and any inaccurate answer will entitle the insurer to repudiate his liability because there is clear presumption that any information sought for in the proposal form is material for the purpose of entering in the contract of insurance.

Thus on consideration of above facts, circumstances and documents placed by the respondent Insurance Company, I have no hesitation in coming to the conclusion that the statement made by DLA Late Ram Kishan Ahirwar the insured in the proposal form as to

the state of his health, ailment or treatment for the said lung disease (T.B.) was palpably untrue to his knowledge thus there was clear suppression, concealment and non-disclosure of material facts with regard to the ailment, treatment and health of the insured, therefore the respondent insurance company was fully justified in repudiating the insurance contract as per policy document and the complainant is not entitled for the death claim as made in her complaint.

Under the aforesaid facts, circumstances, material placed on record and contentions made by both the parties, I am of the considered view that the decision of the insurer the Respondent Insurance Company to repudiate the claim on the ground of non-disclosure of material facts in the proposal form at the time of revival of the said policy under the terms and conditions of the policy document is in order and does not require any interference by this authority. Being devoid of merits, this complaint stands dismissed.

Both the parties shall bear their own cost of proceeding in this forum.

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 4th day of September, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN

BHOPAL CENTER

OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Smt. Priti Dhariwal……Complainant

VS.

Life Insurance Corporation of India……Respondent

Order No. BPL/LI/13-14/ **Case No. LIC/42-21/05-10/BPL**

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This complaint has been filed by the complainant Smt. Priti Dhariwal after death of her insured husband Late Shailendra Dhariwal who was covered under New Bima Kiran Policy bearing no. 351846921 for Sum Assured of Rs. 7 lacs praying therein to direct the Respondent to make payment of Death claim amounting Rs. 7 lacs + 12% Interest and Bonus as per policy.

As per complaint, the husband of the complainant Late Shailendra Dhariwal had taken a New Bima Kiran policy bearing no. 351846921 for Sum Assured of Rs. 7 lacs on yearly premium of Rs. 11793/- which commenced on 25.05.2002 and the complainant Smt. Priti Dhariwal was made nominee by the Life Assured. The above said policy was also revived in the month of Jan'2007. It is further said that the Life Assured, the husband of the complainant Late Shailendra Dhariwal expired on 30.10.2008 at Chirayu Hospital, Bhopal and therefore the complainant lodged the claim to the Respondent LIC but LIC repudiated the claim of the complainant on the ground of suppression of material fact at

the time of revival of policy and also set aside the revival and only Rs. 35,379/- was paid in part towards her claim.

Being aggrieved from the action of the Respondent LIC, the complainant lodged the complaint on 11.05.2010 before this forum seeking direction to look into the matter for getting claim and to direct the Respondent Insurance Company to make payment of claim amount and complaint was registered in this office on 13.05.2010 and prescribed forms were issued to the complainant & letter was also sent to the Respondent for filing Self-Contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note respectively.

It has been contended in Self-contained note that the Life Assured died on 30.10.2008 who had the said policy no. 351846921 but as per the report dt. 14.11.2006 of Ayushman Hospital, Bhopal, the DLA was a known and old case of HTN for last 10 years and was on oral medicine and the DLA did not disclose the facts in the Declaration of Good Health dt. 19.01.2007 at the time of revival and also contended in the SCN that the primary cause of death as per Claim Form B was also Cardiac Arrest and since there has been suppression of material facts at the time of revival of policy, the claim was repudiated due to non –disclosure of material facts and revival was also set aside and settlement of paid-up claim was made.

For the sake of natural justice, hearing was held on 02.08.013 at Bhopal and sincere efforts were made during mediation to resolve the dispute i.e. death claim of the husband of the complainant amounting Rs. 7 lacs with Interest and Bonus, but the respondent company was not ready to settle the dispute on the basis of mutual agreement due to suppression and non-disclosure of material facts at the time of revival of the policy. The complainant Smt. Priti Dhariwal as well as Smt. Mohini Vaidya and Shri R.P. Verma the representative on behalf of the respondent LIC were heard.

<u>OBSERVATIONS</u>:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the husband of the complainant Late Shailendra Dhariwal was covered under New Bima Kiran policy bearing no. 351846921 for sum assured Rs. 7 lacs on 25.05.2002 which was issued by the Respondent LIC on the yearly premium of Rs. 11793/- and the date of maturity was 25.05.2024 which was received by the DLA subject to terms and conditions of the policy. It is also admitted fact that the said policy was revived on 25.01.2007 after required medical examination of the DLA and approving the DGH/Medical Report on 24.01.2007. It is also admitted fact that the DLA Late Shailendra Dhariwal was hospitalized in Chirayu Hospital Bhopal on 15.10.2008 and expired on 30.10.2008 at 9.15 AM. It is also admitted fact that the death claim of the husband of the complainant has been repudiated by the respondent company on the ground of non-disclosure of material facts in the declaration of good health dt. 19.01.2007 at the time of revival.

During course of hearing the complainant reiterated about the facts of death of her husband and repudiation of death claim by the respondent company and prayed to allow the death claim of her late husband the DLA. On the other hand it has been contended on behalf of the respondent that since the DLA had suppressed and not-disclosed the material facts regarding the old case of HTN for last 10 years and about taking oral medicine at the time of revival on 19.01.2007 in the DGH and due to the above non-disclosure of material facts, the claim of the complainant was repudiated and the complaint is not entitled for the death claim as made in the complaint.

The representative on behalf of the respondent mainly laid emphasis on the entry made by the Doctor at the time of admission of late Shailendra Dhariwal in Ayushman Hospital on 14.11.2006 at 12.10 pm on account of suffering from fever with mild chills, body ache, allergy for hair dye 10 days ago and giddiness regarding the past illness of the DLA showing K/C/O HT since 10 years on oral medicine and relying only on the above entry, the claim was repudiated by the Respondent Company for non-disclosure of the above facts at the time of revival of the said policy. The respondent company has not

placed any other medical document on the record to show that the DLA Late Shailendra Dhariwal was suffering from HT since last 10 years and was taking oral medicine and during course of hearing, the respondent also could not satisfy by placing any other treatment paper for HT. From perusal of the discharge document issued by Ayushman Hospital in which the above entry about HT has been mentioned against the column of past illness but from perusal of TPR-BP chart of the DLA dt. 14.11.2006, it has been found that Doctor has not made any entry in the column of BP for the reason best known to the attending doctors but the doctor has mentioned in the clinical data of DLA dt. 14.11.2006 showing the BP 130/80 which reflects that the DLA was not suffering from any HT on that very day and the respondent has failed to show that the fact about past illness was told by the patient himself or his family member or any attendant. The Xerox copy of the history sheet of DLA of Global Liver and Gastroentrology centre where the DLA was admitted on 14.08.2007d and discharged on 20.08.2007 on account of history of acute anal fissure it transpires that the doctor has not found about the HT of the DLA during the course of treatment of the said ailment.

From perusal of the proposal form for revival of the said policy it transpires that the DLA had answered "NO" against the serial no. 2 also which is related to HT or Heart disease and after required medical examination for revival, the DGH/Medical Report was also approved on 24.01.2007 by the respondent company and premium amount for revival was also deposited by the DLA and accordingly the policy was revived. The special biochemical test which was done on 23.01.2007 of the DLA also does not show any adverse report regarding the test of cholesterol and other test and the ordinary revival quotation also contains the facts that "insure requirements are satisfactory against high risk plan". Thus from the above medical examination reports which were approved by the respondent company at the time of revival of the policy as well as inception of the policy, it is clearly established that the health condition of the DLA was quite satisfactory.

Section 45 of the Insurance Act clearly provides that policy cannot be called in question on ground of mis-statement after two years. Since the policy commenced on 25.05.2002 and was also revived in Jan'2007, so statement made by the DLA cannot be

called in question unless it is proved to be fraudulent. From perusal of the record, it is established fact there is no supporting cogent evidence on record except the said entry of HT since last 10 years on oral medicine against past illness at the time of admission dt. 14.11.2006 in Ayushman Hospital and even before and thereafter there is nothing to show the disease of HT to the DLA, so it cannot be said that the complainant was actually in know of the fact that he was suffering from HT at the time of filling the proposal form for taking said policy. The term material fact has not been defined in the Act and material for the purpose of the Protection of Policy Holders Interests Regulation 2002 and IRDA Act, the material shall mean and include all important, essential relevant information in the context of underwriting the risk to be covered by the insurer. The ground for repudiation by the respondent company is concerned with only the suppression and non-disclosure of material information in the DGH at the time of revival and the complainant has given answer "NO" about suffering from HT or Heart disease in the past or but no where it has been mentioned the affect of failure to reveal adverse effect of his health condition at the time of submitting the proposal forms. The policy document is silent about the effect of failure to withhold the material information about the health of the proposer at the time of taking policy or revival of the policy.

Thus, I do not find any force in the contention on behalf of Respondent about the ground of repudiation for not disclosing material facts in the declaration of the proposal form at the time of taking/revival of the policy about the HT or any heart disease and the respondent has failed to give explanation as to why the repudiation does not contain such a ground. From perusal of complaint and P-II form, it appears that the complainant has claimed Rs. 7 lacs on account of death of her husband the DLA as per policy document. The complainant has admitted that Rs. 35,379/- was paid in part and the respondent has also admitted that settlement of paid up claim was made and nothing has been made towards the death claim of the sum assured i.e. Rs. 7 lacs.

Taking into consideration the above facts, circumstances, material placed on record and contentions made by both the parties, I arrive at the conclusion that the decision of the insurer the Respondent LIC to repudiate the claim on the ground of suppression and

non-disclosure of material facts at the time of revival of policy regarding old case of HTN for past 10 years and was on oral medicine is not just and fair and the complainant is entitled for the death claim on account of death of her husband DLA Late Shailendra Dhariwal amounting Rs. 7 lacs (Seven Lacs) only.

Hence, the respondent LIC is directed to pay Rs. 7 lacs (Seven Lacs) only to the complainant Smt. Priti Dhariwal towards death claim of her Late husband within 15 days from the date of receipt of consent letter from the complainant failing which it will attract a simple interest of 9% p.a. from the date of this order to the date of actual payment.

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 7th day of August, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN

BHOPAL CENTER

OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Sadhana Anant…..Complainant

VS.

SBI Life Insurance Co. Ltd……Respondent

Order No. BPL/LI/13-14/017 Case No. LI/SBI/320-21/02-10/MUM

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This complaint has been filed by the complainant Smt. Sadhana Anant as insured under Sudarshan policy bearing no. 06000296708 praying therein to direct the Insurance Company SBI Life Insurance Company Ltd. to make payment of Rs. 5 lacs for treatment cost and Rs. one lac for mental agony.

As per complaint, the complainant Smt. Sadhana Anant had taken a Sudarshan policy bearing no. 06000296708 on 29.01.2003 which included Accident Claim for Rs. one lac for 20 yrs and mediclaim rider under critical illness for Sum Assured Rs. one lac for period of 10 years for which the maturity date was 07.02.2012 and for which premium was of Rs. 3982/- as half-yearly which was being paid by the complainant regularly. It is further said that on 12.10.2008, the complainant the insured was admitted in City Hospital Bhopal due to sudden deterioration in health and got her examined by Dr. S.S. Gupta of the said Hospital who admitted her on the same day and after several tests and examinations the Complainant was found suffering from Biosus Sinus Thrombosis which comes under the serious ailment and she remained admitted in the City Hospital Bhopal from 12.10.2008 to 20.10.2008 and thereafter her further treatment was done in Bombay Hospital Institute of Medical Science, Mumbai since 21.08.2008 to 06.11.2008 and after treatment, the complainant lodged her claim under mediclaim critical illness and sent all the treatment papers and other related documents along with the application to SBI Life Insurance Co. Ltd., Head Office, Mumbai but her claim was refused by the Respondent Insurance Company on the ground that she had given wrong information in Column 12 of the proposal form and since she was suffering from CVA (Cerebro Vascular Accident) since 1994 as such she was not entitled for any claim under the said policy and they also mentioned that on that basis her policy has been cancelled and all the premium amount from year 2003 to 2008 has been forfeited which was an illegal act. It is further said that only on the basis of entry of CVA in the case history of the report of City Hospital, her claim was refused for critical illness on the ground that she was suffering from CVA from 1994 while the complainant was never suffered from any mental disease nor was suffering

from any such mental disease at the time of taking policy nor any surgery was done in this regard, so the information given by the complainant in the policy proposal form in Column no. 12 was true and no false information was given either and after 7 years of taking policy. She learnt about suffering from said disease in the year 2008 and thus, the information given in the proposal form was also correct and only on the basis of above report of the hospital, the respondent insurance company was totally wrong in refusing to make payment of her claim and respondent insurance company should have examined at their own level about the medical report and without examining the described disease as mentioned since 1994 and basing it as ground of refusal was wrongful act of the respondent insurance company. The Complainant has spent about 5 lacs in her treatment and the Respondent Insurance Company did not consider her oral as well as written request till 2009 about making payment of claim amount.

Being aggrieved from the action of the Respondent SBI Life Insurance Company Ltd., the complainant lodged the complaint on 08.02.2010 before this forum which was registered on 08.02.2010. The letters were issued to complainant as well as respondent to submit the required forms as well as self-contained note respectively and both the parties submitted the required forms and self-contained note accordingly.

The Respondent has contended in his self-contained note that the Life Assured should submit a proposal form giving full information for taking the insurance cover and the proponent is duty bound to disclose every factual information in the proposal form whether he considered it as material or not and proposal form is the sole basis to decide the eligibility as to whether a person can be granted insurance cover and any suppression of material fact in the proposal form will constitute a breach of doctrine of utmost good faith.

It has been further contended in Self-contained note that the Complainant Smt. Sadhana Anant the Life Assured had opted for insurance cover under the SBI Life Sudarshan Plan vide proposal form no. 0654207 dt. 29.01.2003 duly signed by her and the

said plan also offers additional cover of accidental death benefit and critical illness rider along with the Basic Sum Assured and as the risk needs to be assessed while accepting the proposal form for insurance cover, it is essential that proposer or person whose life has to be insured gives true and correct answers to the question in the proposal form and the life assured answered negatively to all the questions in the medical questionnaire and further declared that the foregoing statements and answers have been given by her after fully understanding the questions and same are true and has not withheld or omitted to given any information and on the basis of information furnished and declaration given in the proposal form, the policy no. 06000296708 with date of commencement as 07.02.2003 for Basis Sum Assured of Rs. one lac with additional cover of Rs. one lac under ADB and critical illness rider and the Respondent has further contended in the Self-contained note that the complainant was diagnosed from Thrombosis CVA, Superial Sagital Sinus Thrombosis with convulsion on 13/10/2008, but it is revealed in the documents submitted by the complainant that she was suffered from Cerebro Vascular Accident in 1994 and the City Hospital reports recorded the medical history of the complainant as CVA in 1994 and since the Cerebro Vascular disease is related to the blood vessels supplying to the brain but still she did not disclose this material fact in the proposal form and so it is very much clear that complainant fraudulently and intentionally suppressed her medical history and availed the insurance cover.

The Respondent has also contended that in the Schedule III of the policy document, under clause (10) forfeiture, it is clearly stated that, "In case it is found that any statement in the proposal for insurance or in the personal statement or in any reports or documents leading to the issue of this policy is inaccurate or false or any material information has been withheld, then and in every such case but subject to the provisions of Section 45 of the Insurance Act, 1938, this policy shall be void and all claims to any benefit in virtue thereof shall cease and determine and all moneys that have been paid in consequence thereof shall belong to the company". Thus, as per the documents submitted by the complainant, it is proved that the complainant / life assured had suppressed the material facts and given false declaration in the proposal form and hence the respondent SBI Life has forfeited the policy as per the terms and conditions of the

policy documents. It is also contended in the Self-contained note that the life assured deliberately and intentionally suppressed the material facts in the proposal form and obtained the insurance cover fraudulently. Had the SBI Life Insurance Co. Ltd. been aware of the history of illness of the LA, the insurance cover would not have been granted. Hence the contract of insurance is void for fraudulent suppression of material facts. Hence the SBI Life Insurance Co. Ltd. has rightly repudiated the claim and prayed to dismiss the complaint.

For the sake of natural justice, hearing was held on 15.07.013 at Bhopal and sincere efforts were made during mediation to resolve the dispute i.e. the claim of the treatment cost Rs. 5 lacs, but both the parties could not settle the dispute. The complainant Mrs. Sadhana Anant who presented herself and the representative of the respondent Mr. Sachin Kadu, Asstt. Manager of the respondent Company were heard as respondent was not ready to settle the subject matter of the complaint on the ground of bar of the policy conditions.

OBSERVATIONS:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the complainant Mrs. Sadhana Anant was covered under SBI Life Sudarshan plan policy which was issued by the Respondent Company for the said term of 10 years particularly for critical illness commencing from 07.02.03 covering the risk of critical illness also and which was received subject to the terms and conditions of insurance policy. It is also admitted fact that the complainant was hospitalized on account of suffering from Thrombosis and weakness on 12.10.2008 in City Hospital Bhopal and she also gave consent for treatment and operation and after under going required treatment, she was discharged on 20.10.2008 and thereafter she was admitted and treated in Bombay since 21.08.2008 to 06.11.2008. It is also admitted fact that the claim was made by the complainant from the Respondent Company which was repudiated on the ground of bar of terms and conditions of the said policy particularly for

suppression of material information which was within her knowledge at the time of making the proposal.

During the course of hearing, the complainant reiterated the facts about the reasons for hospitalization for said ailment and incurred the said amount towards treatment expenses. She has also submitted that after discharge from the City Hospital, Bhopal, she was also admitted in Bombay Hospital & Medical Research Centre on 21.10.2008 and after treatment there she was discharged on 06.11.2008 and has also incurred more than 5 lacs in the treatment given by both the hospitals. She has further stated that she was not at all suffering from any CVA in the year 1994 or even thereafter before the said treatment as mentioned in the discharge slip of the City Hospital and she has also not stated about any history of CVA in 1994 at the time of admission in the City Hospital Bhopal and she had no knowledge about the terminology of CVA and making entry of the same in the discharge slip. She has also stated that after 13.08.2010, no any treatment is going on and she is fully fit and fine and she has been serving as Asstt. Professor since 1991 in Satya Sai Women College and she has also completed her Phd and since there was clot in her brain and for which medicines were given and she became unconscious due to medicines just after admission in the City Hospital but the Respondent Insurance Co. only on the basis of entry in the discharge slip about H/O CVA on 1994 has refused her claim of the said amount incurred on the treatment asserting that material information was concealed at the time of filling proposal form and taking said policy. She has also stated that the doctor of the City Hospital has also issued certificate to show any Cerebro Vascular treatment in past and she has not concealed deliberately or intentionally any material information or fact at the time of making the proposal for taking said policy from the Respondent Company, so she is entitled for claim as made by her in the complaint.

On the other hand the Respondent on behalf of the Respondent Insurance Company has advanced his contention that since the insurance is a doctrine of utmost good faith and the complainant was duty bound to disclose every factual information in the proposal form but the complainant has deliberately gave answers of Q 7 (iii) and Q 7

(xii) relating to undergoing hospitalization, operations or any investigation and suffering from or suffered in the past from Brain / Nervous System disease in negative i.e. "NO" and in this way, the complainant fraudulently and intentionally suppressed her medical history and availed the insurance cover by committing the breach of doctrine of utmost good faith and as such due to breach of said principle, the contract becomes null and void and as per documents filed by the complainant, it was clear that she had suppressed the material facts and gave false declaration in the proposal form as such the respondent forfeited the premium amount of policy and also submitted that the hospital reports regarding the past history of illness should be relied upon even though the hospital giving the report has not treated the patient in the past and prayed to dismiss the complaint.

From close perusal of the entire documents placed on record by both the parties particularly the discharge document, it appears that the doctor has mentioned H/O CVA on 1994 in Serial No. 3 past history at the time of admission of the complaint in City Hospital and accept sole entry, the Respondent has not brought on record any other document to show that the complainant was ever suffered or treated for the disease CVA in the year 1994, before the year 1994 or before admission of the complainant in City Hospital for the treatment of disease diagnosed in the City Hospital . No doubt, the complainant has filed a certificate showing that she was never undergone any Cerebro Vascular treatment in past as appears from certificate dt. 26.06.2009 which has been issued after repudiation of her claim but it cannot be lost sight off in absence of other supporting documents about undergoing treatment of CVA before taking the said policy by the complainant. The proposal for the policy was filled in Jan'2003 which covered the risk since 07.02.2003 about the critical illness also and H/O CVA has been shown of year 1994 without any cogent document.

The Respondent has also failed to show that from 1994 upto Jan'2003 there has been any recurrence of the disease. The policy has been taken in the year 2003 and the complainant has been treated in the year 2008 i.e. more than 5 yrs of the policy in operation. The Respondent has also failed to show any gap in making payment of premium. To my mind, if the complainant was suffering from any CVA since 1994, she

cannot carry disease with her and she would like that the disease be treated immediately. So the above said disease cannot be said to be pre-existing. The Respondent has also failed to show that on what basis the above information was received and who had given the above statement about the past history showing CVA on 1994. It is also not clear from the record whether the above information given by the complainant the patient herself or her relatives, so an unproved case history recorded by the doctor on the date of admission would not be a cogent evidence to repudiate the claim unless it was coupled with medical reports for the earlier treatment and hence the contention of the insurer that the complainant has deliberately concealed the material information has got no force and is not tenable.

Section 45 of the Insurance Act clearly provides that policy cannot be called in question on ground of mis-statement after 2 years. From perusal of the record, it is established fact there is no cogent evidence on record to show that the complainant was suffering from CVA in the year 1994 and thereafter before treatment of the said disease in the City Hospital as well as the said Bombay Hospital, so it cannot be said that the complainant was actually in know of the fact that she was suffering from CVA at the time of filling the proposal form for taking said policy. The term material fact has not been defined in the Act and material for the purpose of the Protection of Policy Holders Interests Regulation 2002 and IRDA Act, the material shall mean and include all important, essential relevant information in the context of underwriting the risk to be covered by the insurer. The ground for repudiation by the respondent company concerns only the alleged with holding of material information in the personal statement as the complainant has given answer "NO" about suffering from brain disease in the past or undergone any treatment but no where it has been mentioned the affect of failure to reveal adverse effect of her health condition at the time of submitting the proposal forms. The policy document is silent about the effect of failure to withhold the material information about the health of the proposer at the time of taking policy.

Thus, I do not find any force in the contention on behalf of Respondent that the repudiation of claim was justified for not disclosing material information in the proposal

form about the ailment of the complainant and the respondent has given no explanation as to why the repudiation does not contain such a ground. From perusal of complaint and P-II form, it appears that the complainant has claimed Rs. 5 lacs which incurred in her treatment while as per policy document, the Sum Assured is only Rs. 1 lac for critical illness commencing the date of risk from 07.02.2003. The policy was for term of 10 years for critical illness apart from other insurance cover and the policy covers the period of treatment of the complainant. From perusal of the final bill of City Hospital Bhopal from 12.10.2008 to 20.10.2008, the net amount is Rs. 81,920/- and some bills issued by Bombay Hospital and Medical Research Centre shows payment of different amount in thousands which comes more than one lac but since the complainant was insured only for Rs. one lac for critical illness, so she cannot be entitled for the amount more than sum assured towards her treatment.

Taking into consideration the above facts, circumstances, material placed on record and contentions made by both the parties, I arrive at the conclusion that the decision of the insurer the Respondent Insurance Company to repudiate the claim on the ground of suppression of material fact and doctrine of breach of utmost good faith invoking the terms and conditions of the policy is not just and fair and the complainant insured is entitled for the claim amounting Rs. one lac only towards her treatment for the said critical illness.

Hence the Respondent SBI Life Insurance Company Ltd. is directed to pay Rs. one lac only to the complainant Mrs. Sadhana Anant towards claim of her treatment within 15 days from the date of receipt of consent letter from the complainant failing which it will attract a simple interest of 9% p.a. from the date of this order to the date of actual payment.

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 18th day of July, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN

BHOPAL CENTER

OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Smt. Sanghamitra Garhpale……Complainant

VS.

State Bank of India Life Insurance Co. Ltd……Respondent

Order No. IO/BHP/R/LI/0058/2013-14 Case No. SBI/105-34/07-10/MUM

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This complaint has been filed by the complainant Smt. Sanghamitra Garhpale wife of Late I.D. Garhpale on the basis of policy proposal no. 242157426 dt. 15.10.2009 given by the respondent SBI Life Insurance Co. Ltd. on the basis of proposal submitted by husband of the complainant Late I.D. Garhpale praying therein to direct the respondent insurance company to make payment of death claim benefit on the basis of possessing the policy proposal by her Late husband for which premium amount Rs. 25000/- was paid on 12.10.2009 vide cheque no. 001756.

As per complaint, the husband of the complainant Late I.D. Garhpale who was working in State Bank of India had taken home loan from the said bank and in order to cover the risk towards making payment of the loan amount with interest made contact with the working designated officer Mr. Gupta who advised him to take policy of Rs.

12.50 lacs in view of the amount due on that date then his work will be done and accordingly her husband paid premium amounting Rs. 25,000/- for taking policy of sum assured Rs. 12.50 lacs through cheque and in that reference, the policy proposal bearing no. 242157426 was given and the proposal no. of the policy was also login in the system of SBI Life and after log in no information was demanded in this connection and thereby the proposal was taken as correct fully. It is further said that on 19.10.2009 her husband Late I.D. Gadpale expired due to viral hepatitis and cardiac and respiratory arrest and after death of her husband, she made contact with the bank officer then Mr. Surendra Gupta the authorized agent and insurance in-charge telling him about bankers certificate home loan for staff category forwarded the form to SBI Life saying that since her husband had taken policy for coverage of home loan and since he has been expired, so her claim form has been forwarded by Regional Manager personal banking Shri P.N. Tyagi as there was due amount of Rs. 13,25,869/- in the loan a/c and Mr. Gupta had made signature in the note of authority mentioning therein to deposit the amount of death claim in the loan a/c. The said claim form was submitted by complainant on 30.11.2009 and she had acknowledgment of the same. It is further said that she got an information from the bank that the amount which was deposited through cheque in lieu of the proposal for the policy on 12.10.2009 has been returned along with the letter dt. 10.12.2009 and she was astonished to see the fact that the premium amount was returned on her request which was without her permission and request and in this way, she was cheated by the bank as Rs. 25,000/- was taken in the form of half-yearly premium installment and the amount was deposited after making the proposal and after death of her husband, the death claim was processed and telling that the policy was taken against the risk of payment of home loan and her claim form was forwarded which was also signed by Mr. Surendra Gupta as witness as well as concerned insurance agent and in order to save from making payment of claim, the proposal was broken and in the name of insurance she was being cheated and she has been deprived from her genuine claim which are being fabricated fraudulently on false basis in the documents and the role of the representative of the respondent insurance company are suspicious and she has also prayed to call for entire records for minute scrutinization for giving the benefit of the death claim after death of her husband.

Being aggrieved from the action of the respondent insurance company, the complainant filed complaint in the month of July without mentioning the date below her signature as appears from the registration no. mentioned on the complaint itself in this forum for settlement of her claim on the basis of submission of proposal form and allotment of said proposal no. for which the premium was also paid on 12.l0.2009 for which receipt was also issued and which has been registered in this office on 24.07.2010 which appears to be wrongly mentioned in view of letter dt. 05.07.2010 and prescribed forms were issued to the complainant & letter was also sent to the Respondent for filing Self-Contained Note mentioning the letter dt. 05.07.2010. Accordingly, both the parties submitted the prescribed forms as well as Self-contained note respectively.

The Respondent has mentioned in self-contained note dt. 22.07.2010that Mr. I.D. Garhpale the deceased Life Assured had applied for Unit Plus-II regular policy vide proposal no. 242157426 dt. 12.10.2009 along with her initial proposal deposit of Rs. 25,000/-. It has further been contended that mere deposit of amount towards premium along with proposal does not automatically result into a policy as it depends on the sum assured, age and special reports required to be called for and after full satisfaction of the insurer, the proposal would be converted into a policy and the risk cover begins from the date of such conversion and till such time, the amount lying in the proposal deposit remains as it was and it cannot be deemed to be a premium till the decision to accept the risk under the proposal is taken. It has also been contended in the self-contained note that it has clearly been noted in the proposal deposit receipt dt. 15.10.2009 that the insurance cover would commenced only on acceptance of risk by SBI Life and issue of policy contract by SBI Life from the date indicated therein and in this case on the basis of sum assured and age, medical test was called for and requirement letter was raised and same was informed to the deceased life assured vide letter dt. 19.10.2009 and the respondent insurance company had also authorized Health India TPA services Pvt. Ltd. to conduct the medical test as required and as per e-mail received from the said TPA, after receiving the case on 20.10.2009, the team tried to contact Mr. I.D. Garhpale on the given contact no. but same was not responding and came to know that he has passed away. It has also been contended in self-contained note that respondent insurance company received the death claim intimation of husband of the complainant from the complainant

Smt. Sanghamitra Garhpale on 02.12.2009 who was reported to have died on 19.10.2009 as per her statement, so there was no concluded contract between the deceased life assured and the respondent insurance company is not liable to pay any amount towards the death claim and the proposer died on the very same day on which they raised medical requirements, hence the TPA could not contact him for conducting medical examination. It has also been contended in the self-contained note that the claim on the life of late I.D. Garhpale under the other two policies were duly settled by respondent insurance company and the claim under the policy no. 27002299004 was settled vide cheque no. 453742 dt. 11.11.2009 for an amount of Rs. 46,152/- and the claim under the group insurance master policy no. 84001000110 has been settled vide cheque no. 599719 dt. 06.11.2009 for an amount of Rs. 3,00,000/- and as the death of late I.D. Garhpale occurred before the acceptance of risk cover, the initial proposal deposit of Rs. 25,000/- was refunded vide cheque no. 740370 dt. 05.12.2009 in favour of complainant/nominee Smt. Sanghamitra Garhpale and it has been contended in self-contained note that there was no contract of insurance unless accepted by the insurer and communicated to the proposer by the insurer and there was no subsisting contract between deceased life assured because the medical requirements was raised vide letter dt. 19.10.2009 while scrutinizing the proposal form and the death of deceased life assured occurred before compliance with the medical requirements and the respondent insurance company has not accepted the risk cover at the time of his death. Hence, the respondent insurance company has no contractual liability of whatsoever nature to entertain any insurance claim of the life of the diseased as there was no concluded contract between the deceased life assured and respondent insurance company during the lifetime of deceased life assured and as such the complaint is not maintainable and prayed to dismiss the complaint.

For the sake of natural justice, hearing was held on 10.09.2013 at Bhopal and sincere efforts were made during course of hearing to settle the subject matter of dispute through mediation but the respondent company represented by Mr. G.K. Sinha was not ready to settle the claim on basis of mutual agreements on the ground of unconcluded

contract. The complainant Smt. Sanghamitra Garhpale who presented herself as well as Mr. G.K. Sinha who represented on behalf of the respondent Company were heard.

The complainant Smt. Sanghamitra Garhpale reiterated the versions made in her complaint and submitted that her husband had paid Rs. 25,000/- as first premium for taking the said policy of Rs. 12.50 lacs while submitting the proposal form signed by him in view of covering the risk towards home loan taken by her husband on assurance of the Mr. Gupta an officer of his bank where he was working but unfortunately her husband died on 19.10.2009 due to hepatitis and cardiac arrest and when she lodged her death claim by submitting claim form on 30.11.2009 in the insurance company which was also forwarded by Mr. P.N.Tyagi, Regional Manager (Personal Banking) with the note that the amount which would be paid from death claim should be deposited in the loan a/c but she got information vide letter dt. 10.12.2009 and deposited premium amount was returned and in this way she was cheated by the respondent insurance company and has been deprived to get her genuine death claim and fabrications are also being done in the documents by the respondent insurance company and laid emphasis that delay has been caused in processing after submitting proposal form for issuing the policy to her husband which has caused financial loss and mental agony to the complainant.

On the other hand, the representative on behalf of the respondent insurance company has refuted the contentions made by the complainant regarding alleged any cheating by the respondent insurance company about submitting the proposal form against covering risk of any home loan and also any misrepresentation about submitting the death claim form as the husband of the complainant had submitted the proposal form for issuing policy of SBI Life-Unit Plus II and not about any risk coverage against home loan account and in view of the big amount of the sum assured i.e. Rs. 12.50 lacs, the medical examination was required for which letter was also issued on 19.10.2009 to the husband of the complainant to complete the formalities of underwriting the proposal but before medical examination unfortunately the husband of the complainant died due to said ailment and laid emphasis that since that there was no contract between the proposer and the insurer respondent insurance company and contract remained unconcluded

between the deceased and respondent insurance company during the lifetime of the deceased life assured and as such there is no contractual liability of the respondent company to make payment of the death claim as made and complaint is not maintainable and the complainant is not entitled for any claim as prayed on account of death of her husband and he placed reliance on the ruling reported in CDJ 1984 S.C. 296. .

OBSERVATIONS:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the husband of the complainant Late I.D. Garhpale had submitted a proposal form for taking policy of SBI Life Unit Plus- II. It is also admitted fact that the husband of the complainant Late I.D. Garhpale had submitted proposal form duly filled in and signed by him on 12.10.2009 for Unit Plus-II regular premium policy of the respondent insurance company along with an initial proposal deposit of Rs. 25000/- and proposal no. 242157426 was given by the respondent insurance company and proposal deposit receipt was also issued on 15.10.2009 to the husband of the complainant. From perusal of Xerox copy of the proposal form, it appears that the proposer had ticked in the column of other than minimum sum assured showing multiplier of 25 x A.P. and the proposer had choosen the percentage of premium to be allotted to the funds selected as 50% towards equity fund and 50% towards growth fund. The Xerox copy of the proposal deposit receipt clearly provides in the note mentioned below of the receipt that validity of this receipt is subject to realization of cheque / draft. The insurance cover would commence only on acceptance of risk by SBI Life and issue of the policy contract by SBI Life from the date indicated therein. The amount held as proposal deposit under Unit linked plans will be unitized only after the date of acceptance of risk or clearance of cheque whichever is later which clearly shows that there was no acceptance of risk by the respondent insurance company only on the basis of proposal deposit amount and issue of deposit of proposal receipt does not complete any contract between the proposer and the insurer. The Xerox copy of the letter dt. 19.10.2009 issued by respondent insurance company to the husband of the complainant clearly shows about requirement of medical test of the complainant with reference to the SBI Life Unit Plus-II

Regular premium policy proposed by the husband of the complainant to complete the formalities and underwriting the proposal and request was made to cooperate with them to conduct medical test as early as possible for timely processing of his proposal and the TPA of the company was also authorized to contact the complainant but the respondent insurance company was informed that after receiving the captioned case on 20.10.2009 the husband of complainant has been passed away and prayer was made to cancel the case as appears from the letter sent by the TPA to the respondent insurance company. The death certificate filed by the complainant clearly shows the date of death was 19.10.2009 due to Cardiac Respiratory Arrest. Thus, it is crystal clear that the husband of the complainant Late I.D. Garhpale died before acceptance of proposal and required medical examination and issuance of any policy. It also transpires that from the perusal of the Xerox copy of the death claim form submitted by the complainant that only on the basis of the proposal no. it was submitted on 30.11.2009 and on that basis the respondent insurance company processed the refund of proposal deposit in favour of the complainant as nominee and sent a cheque no. 740370 dt. 05.12.2009 for Rs. 25000/- with letter dt. 10.12.2009 to the complainant meaning thereby the death claim of the complainant was not considered by the respondent insurance company. From perusal of the complaint, it transpires that the complaint has alleged about some cheating and fabricating about unauthorized entries in the documents on baseless grounds fraudulently after making conspiracy by the officers of respondent insurance company only to deprive from giving the benefit of death claim after death of her husband and it certainly requires proof by adducing oral as well as documentary evidence. From perusal of the above referred ruling on behalf of the respondent insurance company, I find that the Hon'ble Supreme Court have observed that the mere receipt and retention of premium until after the death of the applicant or mere preparation of the policy document is not acceptance. Acceptance must be signified by some act or acts agreed on by the parties or from which the law raises a presumption of acceptance. In the above referred case, a proposal was filled by the proposer of insurance of Rs. 50000/- and cheque was issued which was finally in cashed and the deceased proposer died on the day following the day of encashment of cheque and when the claim was lodged for payment, the insurance company denied the liability and thereafter the plaintiffs filed the suit in the Court of Masulipatnam and after framing

issues and trial on the basis of oral and documentary evidence, suit was dismissed and Hon'ble High Court observed that there was concluded contract but Hon'ble Supreme Court allowed the appeal filed by appellant Life Insurance Corporation of India.

On the basis of material available on record which has been placed before me, it is established that unless the proposal is accepted by the respondent it cannot be converted into a contract and since the proposal was not accepted by the respondent insurance company for want of medical examination of the husband of the complainant as required for underwriting the proposal which was to be done on the basis of letter issued on 19.10.2009 to the complainant but due to death of the husband of the complainant the formalities for underwriting could not be completed and proposal could not be accepted, so the contract remained unconcluded. Since insurance cover would commenced only on the acceptance of risk by respondent insurance company and issue of policy contract by the respondent insurance company from the date indicating therein as apparent from proposal deposit receipt, so the respondent insurance company cannot be held liable to make any payment towards death claim. Thus, I find no force in the contention of the complainant regarding any claim on the basis of furnishing proposal no. 242157426 on 12.10.2009 on the basis of initial proposal deposit of Rs. 25000/-.

Since the contract was not complete between both the parties i.e. complainant's late husband I.D. Garhpale and the respondent insurance company, so to my mind, the respondent company cannot be held liable to make the claim as made by the complainant on the basis of conditions mentioned in the proposal deposit receipt and provisions of insurance contract and since there is some complicated question of fact as well as rules and regulations for issuing policy is involved and for which I am of the considered view that necessary evidence (oral and documentary) is required to be adduced to decide the allegation of cheating if any, as well as payment of death claim on the basis of said proposal no. given to the complainant by the respondent company and issuance of proposal deposit receipt and the liability of respondent company for issuing the policy after submitting proposal form in reasonable time and this forum cannot appreciate the

details facts without placing the entire material by adducing evidence therefore no relief can be given by this forum to the complainant.

For sake of natural justice, the complainant is advised to take any other redressal forum considered appropriate for the resolution of subject matter of his grievance. In the result this case stands dismissed.

Both the parties shall bear their own cost of proceeding in this forum.

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 13th day of September, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN

BHUBANESHWAR

Bhubaneswar Ombudsman Centre
Complaint No. 21-001-1572 Death Claim
Sri Birendra Dora Vs Life Insurance Corporation of India
Titlagarh Branch .
Date of Award …… 12.04.2013

Fact: This is a complaint filed for repudiation of death-claim raised on the policy of insurance taken by his daughter, by the Insurer.

The Complainant that he had taken the New Bima Gold policy of insurance under Table-Term 179-12 on the life of his daughter Late Sasmita Dora from the OP-Insurer with yearly premium of Rs.10,660/- for sum assured of Rs.1,85,000/- The risk under the policy issued under no. 593131021 commenced from 17.04.2007. The Life Assured namely Sasmita Dora died accidently on 10.01.2008 . He lodged the death claim with the O.P. submitting all requisite documents but repudiated by the insurer for such suppression of material facts. The O.P.stated that the LA died on 10.01.2008 due to vaginal bleeding. Prior to the date of the proposal, the Life Assured was suffering from Rheumatic Heart Disease and had undergone Mitral Valve Replacement. But these facts

were concealed in the Proposal and wrong answers were deliberately given by the Proposer to the questionnaire under point no.13 of the Proposal Form.

Award- The materials on record would show that the complainant was asked by the O.P. repeatedly to furnish treatment papers relating to Rheumatic Heart Disease & Mitral Valve Replacement in the life assured. It appears that no such paper was furnished by the complainant who on the contrary replied by stating that his deceased daughter Sasmita had no health problem during the preceding three years. The history of the ailment relating to the LA was reported at the hospital by the father of the patient. The form has been signed by the Medical Officer I/c of CHC, Saintala, Bolangir, which is a Govt. Hospital. There is no reason to doubt the authenticity of the entries made in the Form. When the fact of mention of disease of Rheumatic Heart Disease with mitral valve replacement brought to his notice, the complainant expressed his ignorance as to how the Doctor of CHC, Saintala recorded the above facts in the Certificate recording past health history of the patient. The entries made by the Doctor of CHC, Saintala, would show that the LA had Rheumatic Heart Disease and had undergone Mitral Valve replacement. It would bear repetition that it is the Complainant who was the father of the LA had reported the facts at the Govt. Hospital i.e., the CHC, Saintala to which place she(LA) was taken for consultation & treatment on 10.01.2008. But when asked, the complainant gave no information relating to above disease in the LA. In the circumstances, it would be natural to conclude that lest information about the illness of the LA should go against the interest of the complainant, the materials were not furnished by the complainant. It would follow that the complainant did not make clean breast of facts relating to LA's past medical history. It is the accepted position that contract of insurance is a contract of good faith. By not disclosing the fact relating to the health condition of LA in the Proposal, breach of principle of good faith was made in taking the policy. When such breach is made, there would lay no liability on the insurer to pay any benefit under the policy to the beneficiary thereof. The complainant is not entitled to the benefit of death- claim under the policy. As such the complaint, being without merit is hereby dismissed.

<u>Bhubaneswar Ombudsman Centre</u>

Complaint No. 21-001-1573 Death Claim

Smt Nivedita Swain Vs Life Insurance Corporation of India

Uditnagar Branch .

Date of Award …… 16.04.2013

Fact: This is a complaint filed for repudiation of death-claim raised in respect of her husband's policy of insurance by the Opposite Party.

It is stated by the Complainant that her husband Late Dhiren Kumar Swain during his life time had taken LIC's Jeevan Anurag (With Profits) policy of insurance under Table-Term 168-18 for sum assured of Rs.1,05,000/- commencing from 08.01.2009 with

yearly premium of Rs.6,553/- from the Opposite Party-Insurer vide policy no. 593528385. Her husband,the Life Assured, died on 30.10.2010. She lodged the death-claim with the O.P. and submitted all documents. But the O.P. rejected her claim on the ground of suppression of material fact regarding health of the LA in the Declaration of Good Health submitted by the LA for revival of the policy on 03.09.2010.

The O.P. stated that the policy which commenced from 08.01.2009 had lapsed due to non-payment of yearly premium due in Jan'2010. On 03.09.2010, the LA secured the revival of the policy concealing material information regarding his health and giving deliberately wrong answers to question no. 2 in the Personal Statement Regarding Health (Form No. 680). The LA died of Cirrhosis of liver and Hepatic Coma 1(one) month & 27 days after revival of the policy. The LA had taken treatment from Dr.K.C.Rath for the above diseases in July'2010 which was prior to the revival of the policy. The LA had availed of sick leave during the service career for different spells prior to the date of revival i.e., from 11.05.2010 to 14.06.2010 (35 days), from 17.06.2010 to 06.07.2010 (20 days) and from 01.08.2010 to 28.08.2010 (28 days). As material information on his heath was concealed by the LA while seeking revival of his policy, the claim was repudiated.

Award:

The medical records as well as the leave particulars would show that the LA suffered from Acid Peptic disease prior to the revival and that he underwent blood and urine tests and he availed sick leave for different spells for period exceeding a week on many occasions between dates of Proposal and of revival. Nothing is brought on record by the Complainant to counter the above materials. So the facts which emerge from above materials shall have to be accepted. But these facts were not stated by the LA in the Personal Statement Regarding Health filed for revival of the policy. In other words, the material facts regarding his own health were suppressed by the LA for getting his policy revived. As the LA suppressed the above material facts relating to his health in the Personal Statement Regarding Health, repudiation of the death claim as has been made by the Insurer, is therefore not unjustified. The Complaint is not entitled to the relief as asked for by her. Hence, the complaint, being without merit is hereby dismissed.

<u>Bhubaneswar Ombudsman Centre</u>

Complaint No. 21-001-1583 Death Claim

Smt Sanjukta Nayak Vs Life Insurance Corporation of India

Bhubaneswar BO I .

Date of Award 25.04.2013

Fact: This is a complaint filed for repudiation of death-claims raised upon her son's two policies of insurance by the Insurer.It is stated by the Complainant that her deceased son Nirmal Chandra Nayak had two policies of insurance taken from the OP-Insurer one under Bima Gold Plan appertaining to Table-Term 174-16 for sum assured of Rs.50,000/-

commencing from 14.11.2005 with quarterly premium of Rs.682/- vide policy no. 586299803 and the other under Jeevan Saral (With Profits) Plan appertaining to Table-Term 165-15 for sum assured of Rs.1,25,000/- commencing from 23.09.2010 with yearly premium of Rs.6,005/- vide policy no. 587700792. Her son, the Life Assured, died on 16.11.2010. Being the mother of the deceased Life Assured, she lodged the death-claims with the O.P. which repudiated the claims assigning the reason that her son who was suffering from Severe Mitral Stenosis and Rheumatic Heart disease did not disclose the facts while taking the policies as well as reviving the policy. The O.P. stated that the policy bearing no. 586299803 which was taken by Late Nirmal Chandra Nayak on 14.11.2005 was revived on 25.04.2009 on payment of unpaid premiums from 8/2007 to 2/2009 and submission of good health statement by him. The other policy bearing no. 587700792 had commenced from 23.09.2010. On 16.11.2010 the LA died at Apollo Hospitals, Bhubaneswar due to Cardio Respiratory Failure. Its investigation revealed that the LA had suppressed material fact relating to his health in the Declaration of Good Health (DGH) filed by him while reviving the former policy on 25.04.2009 and in the Proposal Form dated 21.09.2010 submitted for taking the latter policy. As per the medical records of Apollo Hospital, the LA was a known case of Congenital Rheumatic Heart Disease (RHD) with Mitral Stenosis (MS) and Magnetic Resonance (MR). For non-disclosure of the material information about his health, it repudiated the death claims. On the date of revival, the policy having not acquired any paid-up value, nothing became payable on such policy.

Award:

It would be evident from the medical papers of Apollo Hospital that in the last part of October 2010 and during first fortnight of November'2010, the LA underwent several medical tests and received treatment and he underwent Mitral Reconstruction surgery on 27.10.2010. This surgery relates to heart. The fact of the treatment of the LA at Apollo Hospital, Bhubaneswar during one month before his death is admitted by the complainant.. Death Summary of the Department of Cardiology of Apollo Hospital relating to the LA would show that the LA was a known case of congenital Rheumatic Heart disease with MS and MR.. The medical papers as referred to above clearly show that the LA made false statements in the documents for revival and for taking of the policies. In such circumstances, the repudiation of the death claims as has been made by the O.P. is not open to challenge. Consequently, the Complainant would not thus be entitled to the death-claims from the Insurer for suppression of material facts by the LA concerning his own health. Hence the complaint, being without merit is hereby dismissed.

<u>Bhubaneswar Ombudsman Centre</u>

Complaint No. 21-001-1589 Death Claim

Smt Minati Sahoo Vs Tata AIA Life Insurance Co. Ltd. Bhubaneswar Branch .

Date of Award 24.04.2013

Fact:

This is a complaint filed for repudiation of death-claim based upon her husband's policy of insurance by the Insurer.

It is stated by the Complainant that her husband Late Anil Kumar Behera had availed of a house-building loan of Rs.5,00,000/- from Utkal Co-operative Banking Society Ltd. on 24.08.2010. As the borrower of the Bank he was insured under Group Total Suraksha Insurance policy of the O.P. bearing no. UGML000002 vide Membership Application No.11642. Towards single installment of the premium he paid Rs.25,975/- on the policy. Her husband, the Life Insured, died on 23.04.2011.Being the nominee of her husband under the policy, she lodged the death-claim with the OP which repudiated her claim on the ground that that the LA had Diabetes before applying for the policy, but, he did not disclose about the disease in him in the Membership Application Form filed by him for getting the policy cover. However, while rejecting her death claim, the O.P. refunded her Rs.19,964/- out of the premium deposited under the policy.

In its SCN, the O.P. has stated that Utkal Co-operative Banking Society Ltd. which was the Group Policy holder, had submitted the Enrolment/Application Form dated 24.08.2010 of the LA after being duly signed by it for extending insurance cover to the LA under its Life Group Total Suraksha policy for an initial sum assured Rs.5,00,000/- .Accordingly, it issued the policy bearing no. UGML000002 with Certificate No. 0000000190. On receipt of the death intimation and other documents from the nominee, investigation revealed that the LA died on 23.04.2011 due to his suffering from ILD, Type-2 DM and HTN which was suppressed by the LA in the application form. For non-disclosure of above material facts relating to health condition of the LA, death-claim was repudiated but refunded the premium amount deposited on the policy amounting to Rs.19,964/- by cheque dated 17.11.2011 to the Group Policy holder i.e., the Utkal Co-operative Banking Society Ltd.

Award:

As regards DLI's suffering from the disease of Diabetes prior to the Proposal, the vernacular version of Complainant's statement, a copy of which has been filed by the O.P. brings out that late Anil Kumar Behera, the DLI was a diabetic patient and he had been receiving treatment from Dr. Sudhir Ranjan Patnaik for past 2 years obviously before his death. The Complainant does not deny submission of this statement by her relating to the death of her husband to the O.P. She had also stated that during the period of 2 years her husband was getting treatment from Dr. S.R.Patnaik whose name appears as the Doctor referring for examination of blood of the DLI on 05.03.2009 and 10.03.2009. The examinations as the reports would show were made to ascertain the blood glucose value, both fasting and after food in the patient. The readings noted in the blood report of 05.03.2009 would show that the estimated value was much above the normal range. The test readings corroborate the statement of the Complainant that her husband was diabetic and was being treated by the doctor for 2 years before his death. But, as already noticed, in the Enrolment Form, the proposed insured denied having taken any treatment at any point of time for diabetes and having undertaken any blood test within 12 months preceding the date of the proposal. In view of the blood test reports and own statement

of the Complainant who is no other than the wife of the deceased insured, material facts were suppressed. Therefore, OP's decision in repudiating the death-claim of the complainant does not warrant any interference. Hence, the complaint being without merit is hereby dismissed.

Bhubaneswar Ombudsman Centre

Complaint No. 21-001-1596 Death Claim

Smt. Kuni Behera Vs Bajaj Allianz Life Insurance Co. Ltd.

.

Date of Award 23.05.2013

Fact: This is a complaint filed for repudiation of death-claim .She has otherwise asked for getting non-refund of money deposited on her husband's policy of insurance from the Insurer.

It is stated by the Complainant that her husband Late Duryodhan Behera during his life time had taken from the Opposite Party-Insurer the Invest Gain –Economy policy of insurance of 18 year term commencing from 06.06.2006 vide Policy No. 21833713 for sum assured of Rs.33,000/- with annual mode of payment of premium at the rate of Rs.2,039/- He paid premiums on the policy regularly for three years but could not pay the premiums thereafter. By payment of the arrear annual premiums due for the fourth & fifth years and on submission of Declaration of Good Health (DGH) statement, he revived the policy on 10.06.2010. Her husband, the life assured, died on 20.12.2010 at Cuttack. Being the nominee of the LA, she applied to the OP-Insurer for death- claim submitting Death Certificates and other hospital papers relating to the LA. But, the Insurer rejected the claim .Against the rejection, she represented to the O.P.'s Claims Review Committee at Pune for reconsideration of her death claim and alternatively to return the deposited amount of money amounting to Rs 10,505/-.But her request was turned down by the Committee vide OP's letter which she received on 30.09.2011.Feeling aggrieved ,she has filed this complaint seeking payment of the death claim or at least the refund of the deposited amount of premium on her husband's policy

.

The O.P. stated that for non-payment of the premium dues, the policy went into lapsed condition on 06.06.2009 . Afterwards upon payment of two unpaid/arrear premiums with submission of DGH statement, the LA got the policy revived on 10.06.2010. The LA died on 20.12.2010 i.e., 192 days after revival of the policy. Investigation revealed that the deceased Life Assured had history of Anti Tubercular Therapy in 2009 .These material facts were known to the life assured who did not disclose the same in the DGH statement filed by him for reviving the policy on 10.06.2010. Due to non-disclosure of these material facts by the life assured in the DGH at the time of revival of policy, the death claim under the policy was repudiated. It is further stated that by the time of lapsation of the policy on 06.06.2009, 3 yearly premiums had been paid by the insured

and by such payment the policy had acquired paid-up value & bonus for 3 years which amounted to Rs 7,623/- It is now ready to make payment of the amount to her.

Award:

The OPD ticket of SCB Medical College Hospital issued on 20.12.2010 in respect of patient-DD Behera, undeniably the LA of this case, has been filed to show that the LA's was a known case of Diabetes Mellitus and he was admitted to TB ward for treatment and he was given ICT . It is specifically mentioned in the Ticket that the patient was a known case of DM, an old case of PTB and he was given Anti Tubercular Therapy in 2009. This document would show that in 2009 the LA received treatment for TB and he was then suffering from Diabetes Mellitus and Pulmonary Tuberculosis. Clearly therefore disclosure of material facts regarding his own health was not made by the LA for the purpose of getting the policy revived. In such circumstances, repudiation of death claim of the complainant as has been made by the OP cannot be called in question. In terms of the policy, out of the premiums deposited prior to the revival ,the complainant is entitled to get Rs 7,623/-. Hence, the complaint is allowed in part.

Bhubaneswar Ombudsman Centre

Complaint No. 21-002-1598 Death Claim

Smt. Mamata Naik Vs SBI Life Insurance Co. Ltd .

Date of Award …… 31.05.2013

Fact: This is a complaint filed for repudiation of her Death-Claim raised on her deceased husband's policy of insurance taken under Group Scheme issued by the Opposite Party-Insurer. It is stated by the complainant that her husband late Ajay Naik during his life time had opened a SB A/c at State Bank of India, Betanati Branch on 04.06.2011 by depositing a sum of Rs 1680/-out of which Rs 1,000/- was meant for maintaining the Saving Bank A/c and the balance amount of Rs 680/- for insurance cover. The insurance amount was transferred on 09.08.2011 from his above a/c to the credit of the OP which provided policy cover to her husband from 01.09.2011 by issuing the policy certificate in his name accordingly. Her husband died on 11.09.2011 which occurred 99 days after opening up the Bank Account with deposit of Rs.680/- for insurance cover. Upon the death of her husband, she lodged the death claim with the OP which repudiated her claim taking aid of Clause 5 of Schedule III of the Policy. It is stated by the Complainant that her husband was no way responsible nor had committed any mistake for the delay in commencement of the policy. Being thus aggrieved by repudiation of her claim, she has filed this complaint seeking an order in her favour.

The OPstated that deceased life assured late Ajay Naik had applied for Swadhin Group Insurance Scheme under Master Policy No.86000052906 through membership form No.8613767113 dated 08.08.2011. The risk for sum assured of Rs 50,000/- in

respect of him commenced from 01.09.2011 -. The DLA-Ajay Naik died a natural death on 11.09.2011 due to Cardio-respiratory failure. His death occurred after duration of 10 days from the commencement of the policy .As per Forty-five day Exclusion clause of policy terms & conditions under Schedule III clause 5 , no payment of any benefit including riders ,if any, shall be made by the insurer when the claim event occurred within 45 days from the date of commencement of insurance cover except where death takes place due to accident. It is further stated that as per clause 2 of policy terms & conditions of the Master Policy , Insurance cover for a member shall commence on the first of the month immediately following the date of draft containing the premium for that member and details pertaining to such member are furnished.

Award:

The Policy condition No 2 under Schedule -III provides that the cover shall commence on the first day of the month immediately following the date of draft containing premium and details pertaining to the life assured are furnished to the Company. The application by the DLA was submitted on 08.08.2011 .Necessarily as per the policy condition. the risk would commence from 01.09.2011. Policy Exclusion Clause No. 5 under Schedule III provides that if the event takes place within 45 days of the commencement of the cover for the member, there would be no liability on the company to pay the benefit. But this is subject to the exception that the exclusion will not apply if death occurs due to accident. It is not the case of the complainant that her husband met any accidental death. As such, the death of the life assured having taken place within a period of 45 days from the date of commencement of risk, the death claim to the complainant is not payable by the Insurer under the policy. In above view of the matter, no interference is called for in the action of the OP in repudiating the death- claim of the complainant. Hence, the complainant being without merit is hereby dismissed.

<u>Bhubaneswar Ombudsman Centre</u>

Complaint No. 21-009-1631 Death Claim

Smt. Arati Kumari Sahu Vs Bajaj allianz Life Insurance Co. Ltd

Date of Award …… 24.05.2013

Fact:

This is a complaint filed for repudiation of Death-Claims and non-refund of deposited amounts of premiums on two policies of insurance taken by her deceased husband first one on his own life and the other one on the life of their minor daughter, by the Insurer. It is stated by the Complainant that her husband late Sushanta Kumar Sahu during his life time had taken two policies of insurance from the OP-Insurer-,the first

one being under latter's Fortune Plus plan of insurance of 10-year term commencing from 12.11.2009 bearing policy No.0139134914 taken on his own life for basic sum assured of Rs 1,50,000/-with annual mode of payment of premium of Rs 15,000/- and the other one being under latter's Child Gain plan of insurance of 17 years term with premium paying term for 14 years commencing from 25.01.2010 on the life of his daughter- Anisha Rani Sahu bearing policy No 0148995785 for basic sum assured of Rs 1,15,000/- with annual mode of payment of premium of Rs. 10,585/- .Her husband died on 30.03.2011. She filed death-benefit claims with the Insurer which repudiated her claims on the ground of non-disclosure of material facts regarding his own health by the life assured at the time of proposals. The OP paid her in part paying Rs 20,319/- .No payment was made in the policy taken in respect of their daughter. The OP stated that the claims raised by the complainant on the policies bearing no.139134914 which commenced from12.11.2009 & bearing no. 148995785 which commenced from 25.01.2010, both taken by the husband of the complainant namely deceased-Sushanta Kumar Sahu which ran the durations of 503 days & 429 days respectively, were repudiated for non-disclosure of material facts relating to LA's sufferings from & taking of treatment for the disease of Chronic Myeloid Leukemia since June 2006. Since the policy taken by the deceased LA on his own life was unit-linked ,the fund value of Rs.20,319/- was only paid out on the policy . For Child Gain policy bearing No.148995785 since the proposer-Sushanta Kumar Sahu who was the Counter Life Assured in the policy taken for his daughter and had the benefit of death-coverage under the policy, did not disclose the material facts known to him, refund of deposit is not permissible as per the conditions of the policy which needs to be continued on the life of minor life assured .

Award: In the case at hand it has been found that in the proposals submitted by the proposer who himself was the life assured in the Fortune Plus policy and the counter life assured in child gain policy taken for his daughter, had concealed the facts regarding his continuing disease , medical examination and treatment for the disease of CML. There cannot be any dispute that the information regarding the past and current illness of the proposer & the life assured in the proposal is material, relevant and essential for the insurer for the purpose of underwriting the risk. But these material facts were not disclosed by the proposer cum the life assured in both the Proposals filed for taking the policies. It may be mentioned that the fortune plus policy being a unit-linked plan the available fund value has been paid. The Child gain policy taken was not unit-linked. The complainant is therefore neither entitled to any death benefit nor to get refund of deposited amount of premiums on the policies. Hence, the complaint being without merit is here by dismissed.

.....

Bhubaneswar Ombudsman Centre

Complaint No. 21-012-1626 Death claim

Smt. Surbhi Mahipal Vs PNB Met Life Insurance Co. Ltd .

Date of Award …… 07.06.2013

Fact: This is a complaint filed for repudiation of her Death-Claim raised on her deceased husband's policy of insurance by the Insurer.It is stated by the Complainant that her husband late Rakesh Mahipal during his life time had taken the life insurance policy under Met Monthly Income Plan of 20-year term commencing from 30.07.2010 for sum assured of Rs. 18,00,000/- from the OP-Insurer on payment of annual premium of Rs.2,99,859.06 vide Policy No.20387695 .During the currency of the policy, i.e., on 11.03.2011 her husband was admitted to Apollo Hospital, Bhubaneswar for treatment and during his treatment, her husband expired on 14.03.2011 due to "Severe Sepsis with Multiple Organ failure and shock attributable to left Lower-zone Pneumonia". She lodged the death-claim with the OP which repudiated her claim on the ground that the indoor papers of the Apollo Hospital, Bhubaneswar, revealed that her husband was suffering from "Diabetes" since 2005 and this fact was not disclosed in the Proposal filed by him for taking the policy.

The OP stated that on 28.04.2011 the Complainant who was the nominee under the policy filed the death-claim. Investigation revealed that the deceased insured had not disclosed the material fact as regards his health mentioning the fact of having been diagnosed with and treated for the disease of Diabetes Mellitus before applying for taking the policy on 30.07.2010 by answering in negative the specific questions in the proposal form relating to his suffering. For non-disclosure, misrepresentation & suppression of these material facts made by the deceased life insured in the proposal form the claim was denied.

Award:

The indoor case papers of Apollo Hospital, Bhubaneswar for the period from 11.03.2011 to 14.03.2011 concerning the insured established that the DLI was suffering from Diabetes Mellitus from the year 2005 and was under the treatment since then with Insulin medication & OHA (Oral Hypoglycemic Agent). The fact of such suffering & treatment was with the knowledge of the DLI. But these facts were not disclosed by him in the proposal filed for taking the policy. Medical history of the insured relevant and essential facts for underwriting purposes. It would therefore follow that essential material facts were not disclosed by the proposer for taking the policy. When such situation takes place, the insurer has every right to deny performance of its part under the contract of insurance. Simply because some other companies allowed similar claim, the same would not be a ground to allow all other claims. A matter is always to be decided on merit and not otherwise. In the circumstances, denial of the complainant's claim as has been made by the OP does not call for any interference. Hence the complait being devoid of merit is hereby dismissed.

Bhubaneswar Ombudsman Centre

Complaint No. 21-003-1655 Death claim

Smt.Kabita Behera Vs Tata AIA Life Insurance Co. Ltd .

Date of Award …… 27.06.2013

Fact: . This is a Complaint filed for repudiation of her death-claim raised upon her husband's policy of insurance, by the Insurer.

It is stated by the Complainant that on 12.11.2010 her husband late Harihar Behera had incurred a loan of Rs.3 lakhs from Utkal Co-operative Banking Society Ltd., Bhubaneswar (for short "Banking Society" hereinafter).By virtue of being a borrower under the Banking Society, he took the insurance coverage from 12.11.2010 for the above loan amount under the Group Insurance policy bearing no.UGML-00002 of the OP .Unfortunately, on 17.12.2011 her husband died of stomach Cancer. As per the terms and conditions of the policy, the liability of the insured borrower for repayment of the outstanding amount of the loan in the event of his/her death during the cover period is to be borne by the Insurer. She requested the Insurer to pay up the amount lying due on the loan in respect of her deceased insured husband .But the insurer did not honour her request and rescinded the policy from the inception on the ground that the deceased life assured was suffering from "grave physical ailment" prior to taking the policy but the same was not disclosed in the Proposal form by him. The OP stated that investigation revealed that the life insured as per the medical papers of Sparsh Hospitals & Critical Care(P) Ltd. had prior to making the application for insurance undergone treatment for upper abdominal bleeding and for chronic inflammatory lesion in stomach which was evaluated as malignant. But the life insured did not disclose these material facts in his Application/ Enrolment form dated 12.11.2010 .and for such non-disclosure of material facts concerning the health condition of the Life Insured the claim was repudiated.

Award:

It is worth-mentioning that the statements in the Enrolment Form were supported by the Declaration made by the Proposed Life Insured as to the correctness and completeness of the information furnished therein. But as it has been found incorrect and false statement were given by him in the Enrolment Form by stating contrary to what the medical papers disclose relating to him. The contention of the complainant that they were not aware of the suffering of her husband cannot be accepted in view of the fact she herself has filed the out-patient consultation paper relating to her husband which would show that paying consultation charges, medical consultation at the Out Patient wing of Sparsh Hospital was taken by her husband on 11.11.2010, the date which was just one day prior to making of the application for Enrolment for policy cover by her husband. It is needless to say that policy of insurance is a policy of contract which is based on principles of utmost good faith. But in the case at hand it has come to the light that false information was furnished with regard to his health by the life insured for taking the policy. When policy is obtained by suppressing material facts by one party, the other party to the contract is legally entitled to avoid its liability under the policy. Since the life insured suppressed facts with regard to his health condition which was no doubt material for grant of policy cover by the OP, repudiation of claim as has been made by the latter

cannot be said to be unjust or improper. In such circumstances, the complainant is not entitled to the death benefit as claimed by her under the policy of her deceased husband. Hence, the complaint being devoid of merit is dismissed.

Bhubaneswar Ombudsman Centre

Complaint No. 21-010-1657 Death claim

Sri Dijabar Pradhan Vs Reliance Life Insurance Co. Ltd .

Date of Award 28.06.2013

Fact: This is a complaint filed for repudiation of his death-claim raised upon his wife's policy of insurance, by the Insurer.

It is stated by the Complainant that his wife late Ramamani Pradhan had insured her life with Reliance life Insurance Co.Ltd.on 21.12.2010. The Life Insured- Ramamani Pradhan died of 'Rheumatism' on 09.03.2011 .Being the nominee under his wife's policy, he filed the death-claim with the OP enclosing the Medical reports and Death certificate relating to the Life Insured on 11.07.2011.He pursued the matter with the OP for settlement of the death-claim .But the OP gave him misleading information and did not pay him his claim dues . Being aggrieved thereby, he has to file the present complaint seeking relief of payment of death-claim to him on her wife's policy of insurance.

The OP stated that the deceased late Ramamani Pradhan had taken its Cash Flow Plan policy of insurance of 22-years term from it vide policy No.18318140 commencing from 27.12.2010 for a sum assured of Rs 1,00,000/- on annual premium of Rs 7,097/-. The deceased Life Assured who at the time of taking the policy had full knowledge of the terms and conditions of the policy, for the purpose of getting the policy cover duly filled in the Proposal form appending her signature therein. Death of the Life Assured occurred on 09.03.2011 i.e. 71 days after issuance of the policy. The complainant lodged the Death claim on 09.07.2011. On investigation it is found out that the deceased Life Assured had taken numbers of medical tests at Global Diagnostic Centre on 27.11.2010 which were undertaken prior to the Proposal. Since she made concealment of material facts regarding her pre-existing illness, diagnosis & medical tests ,the Claim was rightly repudiated.

Award:

The Question No. 30 under the heading 'Life style question and personal history of the life to be insured' in the Proposal Form required the Proposer who was the Life to be Insured to answer regarding the taking of any medication, Drugs either prescribed or not prescribed by the Doctor, or her suffering from any illness during the preceding 5 years including taking of any medical or specialized examination like chest X-ray , blood test etc. But the Proposal form would show that as against these questions, answer 'No' was tick- marked stating thereby that she (the Life to be Assured) did not undergo any chest X-ray examination or blood test during the past 5 years prior to the application made by

her through the Proposal Form for taking the policy in question. But it has been found from the medical papers of Global Diagnostic Centre that on 27.11.2010 Chest X–ray and blood widal test of the life assured were done. Clearly 3 weeks prior to the proposal these tests were undertaken. But in the Proposal Form, these facts were not disclosed. There cannot be any controversy that personal medical history of the life to be assured as required to be furnished in the Proposal Form by the Proposer are essential material facts for underwriting the risk by the insurer. Since these material facts were suppressed and not disclosed in the Proposal Form by the Proposer who herself was the Life Assured, repudiation of the claim as has been made by the OP cannot be faulted. In such circumstances, the complainant is not entitled to the death-claim as sought for by him on the basis of his wife' policy of insurance. Hence, the complaint is being devoid of merit is hereby dismissed.

Bhubaneswar Ombudsman Centre

Complaint No. 21-009-1647 Death claim

Sri Jaya Patra Vs Bajaj Allianz Life Insurance Co. Ltd .

Date of Award …… 31.07.2013

Fact: This is a complaint filed for repudiation of his Death claims raised upon his wife's three policies of insurance by the Insurer. It is stated by the Complainant that his wife late Kasturi Patra , during her life time had taken on her life three policies of Insurance bearing Nos. 0179716820,0184951646 and 0190217395, the first two being under Invest Gain Economy plan and the last one under Super Saver Regular Premium plan commencing from 12.07.2010,10.09.2010 &06.11.2010 for sums assured of Rs.1,26,000/- Rs.55,000/-&Rs.20,000/- respectively from the OP-Insurer .The Life Assured died on 15.05.2011 in C.H.C. Bellaguntha, Ganjam while receiving treatment for Diarrhea leading to Circulatory failure. Being the husband-nominee of the deceased Kasturi Patra, he filed the death claims but the OP repudiated all his claims on the ground of non-disclosure of material facts in the Proposals filed by the DLA. The OP stated that the Certificate issued by the treating Medical Doctor of CHC-I, Bellaguntha, Ganjam and the entry in OPD Register of the Hospital vide Registration No.6985/20 dated 10.03.2009 revealed that since 10.03.2009 the DLA was taking medical consultation/treatment for Dysfunctional Uterine Bleeding and Cancer Cervix in her .But in the Proposal forms these material facts relating to her past medical history were not disclosed by her in the proposals. For non-disclosure of her past medical history, the claims were repudiated.

Award: A reading of the Certificate of the Doctor of Bellaguntha CHC signed on 26.09.2011 and the entry made in the OPD register in respect of the patient Kasturi Patra

it would bring out that Kasturi Patra was suffering from Cancer of cervix for which she attended the CHC-I Bellaguntha at the OPD on 10.03.2009. The certificate further shows that not only the patient came to the OPD necessarily for consultation/treatment, but also she was referred to Medical College, Berhampur for further treatment. The Complainant has by way of filing the Certificate of the Medical Officer I/C of CHC Bellaguntha accepted the position of his wife attending the OPD of the Hospital on 10.03.2009.The Certificate of the same Doctor dated 26.09.2011 and the copy of the OPD Register dated 10.03.2009 as are filed by the OP clearly bring out that for the disease of Cancer, the patient Kasturi Patra, the DLA attended Bellaguntha CHC on 10.03.2009 for medical consultation/treatment for the disease of cancer of Cervix in her. The date of receipt of such medical consultation was much prior to the dates when proposals were made by her for taking the policies in question. Since the consultation was taken at the OPD it would follow that Kasturi Patra, the DLA was clearly aware of her sufferings from Cancer which disease was recorded in the OPD Register of Bellaguntha CHC of date 10.03.2009 against her name on the day she attended the hospital for consultation/ treatment. Thus, for the purpose of taking the policies, the DLA had suppressed facts relating to her suffering in the Proposal forms. Withholding of such information would amount to suppression of material facts from the insurer who is to cover the risk. In the circumstances, repudiation of the death-claims as has been made by the OP in respect of the three policies taken by the wife of the Complainant for non-disclosure of material facts cannot be faulted with. Therefore, the Complainant is not entitled to the death-claims .Hence, the complaint being devoid of any merit is hereby dismissed.

<u>Bhubaneswar Ombudsman Centre</u>
Complaint No. 24-009-1652 Death claim
Sri Basanta Kumar Guru Vs Bajaj Allianz Life Insurance Co. Ltd .
Date of Award …… 31.07.2013

Fact: This is a complaint filed for repudiation of death claim by the insurer raised upon the policy taken by his mother. The deceased Sarojini Dei had taken the Policy of Insurance bearing No 0141836591 from the OP-insurer on her own life under OP's Invest Gain Economy plan of 18 years term commencing from 28.12.2009 for basic sum assured of Rs.8 lakhs. Sarojini Dei died on 15.02.2012 .Being the only natural-born son of late Sarojini Dei, as well as her nominee under the policy, he filed the death-claim with the OP which by its letter dated 20.06.2012 asked him to produce the Succession Certificate.

Since, as stated by the Complainant, the demand for production of Succession Certificate is not in accordance with the Provisions of the Insurance Act, 1938, he sent an Advocate's Notice questioning the rationale behind act of asking for submission of Succession Certificate by him and asking to pay the death benefit to him without the same. It is stated in the Complaint that Section 39 of the Insurance Act, 1938 recognizes the exclusive right of the nominee to receive the policy-assured amount in the event of death of the policy-holder during the operative period of the policy. With these contentions, the Complainant has prayed for a direction to the OP to effect payment of the sum assured under the policy to him.

The OP that late Sarojini Dei had initially nominated his brother as her nominee under the policy which was issued on the basis of the information furnished in the Proposal by her. Later on she changed the nomination in favour of Mr. Basanta Kumar Guru, the present complainant. When after the death of the Life Assured- Sarojini Dei the death-claim was received from Mr. Basanta Kumar Guru, the Proposal of the DLA was verified and it was noticed that in the Proposal Form the policy-holder had not shown anyone with details as her son or daughter. In the absence of such information in the Proposal, in order to satisfy itself as to the legal relationship between the claimant and the deceased policy-holder, it called upon the Claimant vide its letter dated 05.09.2012 to furnish the Succession Certificate to avoid any fraud or error in payment of the sum assured to the correct person.

Award:

In the above context ,I may profitably refer to the decision of Hon'ble High Court of Allahabad reported in AIR 1999 Allahabad 342 in the case of Lalsa Vs District 4th Upper District Judge ,Basti and Others wherein his Lordship referring to a number of decisions cited at the Bar relating to Section 39 of the Insurance Act,1938 clearly observed that the Provident Fund Act as well as Insurance Act envisages that a Succession Certificate may be issued by the Court in respect of the amount due on account of the provident fund and the insurance policies of the deceased. Thus, there being a clear statutory provision in respect of a Succession Certificate for payment of policy benefits, OP's demand for production of Succession Certificate in relation to the death-claim as filed by the Complainant is not against the provision of Law in the Insurance Act as canvassed by the Complainant. In the circumstances as discussed above, the inescapable conclusion is that asking for Succession Certificate from the Complainant by the OP in relation to his death-claim cannot be legally unjust and unwarranted in the fact-situation of the case. It may be taken note of that while asking for production of Succession Certificate the OP had voluntarily offered to pay interest on the claim amount @ 4% per annum on production of the Certificate within a period of six months from the date of the letter where under the Complainant was intimated to file the Succession Certificate. I find no reasonable and plausible explanation with the Complainant in not filing the Succession Certificate for settlement of death-claim. The objection of the Complainant, therefore, is not sustainable in law. Hence the complaint insofar as it relates to production of Succession Certificate being devoid of merit is hereby dismissed. However, it is made clear if the Complainant furnishes the Succession Certificate, the OP would do well to settle the death claim as early as possible and while

doing so, it may consider its earlier offer for payment of interest if the same would be not otherwise impermissible.

Bhubaneswar Ombudsman Centre
Complaint No. 24-001-1672 Death Claim
Smt. Sanjukta Suna, ,Vs LIC of India, Sambalpur DO
Date of Award 26.07.2013

Fact: . This is a complaint filed for delay in settlement of the death-claim of the Complainant by the OP-Insurer.

The complainant stated that her sister- Sumitra Bag, the Deceased Life Assured(DLA) ,had insured herself with the OP through its Titilagarh Branch under Sambalpur Division for sum assured of Rs.1 lakh vide policy no.593123431.The DLA died on 15.12.2011.Being the nominee of the DLA in the policy, she lodged the death-claim with the OP and furnished all documents relating to the claim on 15.02.2012.In spite of several correspondences being made by her , the OP neither paid her the death- claim dues nor responded to any of her correspondences. Being aggrieved thereby, she has filed the present complaint seeking a direction for early payment of her death-claim.

The OP stated that investigation revealed that in the year when proposal for policy was made, age of the DLA was 74 years as per the Electoral Roll of the year 2006. But in the proposal she had stated her age as 36 years utilizing a fake School Leaving Certificate wherein her date of birth was mentioned as 20.02.1971.The voter list of 2006 further revealed that the DLA had 3 sons, the eldest one-Nilamani Nag being aged 59 years in age then. It was further found that the nominee is actually the grand-daughter of the DLA but in the proposal her relationship with the DLA was mentioned as sister. It became clear from all above facts that with malafide intention for misappropriating public money held by the OP's Corporation, the DLA had made untrue & incorrect statements for taking the policy. It is further stated that as per the policy stipulation contained in Clause 5 if false statements of material facts are made in the proposal, policy is declared void and all claims/benefits become not payable. Accordingly, the death-claim of the Complainant was repudiated and such fact was intimated to her vide letter dated 04.02.2013.

Award:

The Complainant having not participated in the hearing to raise any dispute on the contention of the OP, the stand taken by the OP remains unchallenged. The specific submission of OP's representative at the hearing that Jeevan Ananad policy which the DLA had taken prescribes the age-eligibility of person as 65 years on the upper side for entry. This part of the submission made on behalf of the OP goes unchallenged. OP's

representative referring to the Electoral roll of the year 2006 Gudvella Block under Tusura Police Station in the district of Bolangir submitted that in the year 2006 as the above voter list would reflect Sumitra Nag, the DLA ,was aged 74 years . The policy in question was taken by her in the same year. It would appear from copy of the DLA's Proposal filed by the OP that in the proposal form submitted by Sumitra Bag on 05.04.2006, her age was stated as 36 years with her date of birth recorded as 20.01.71. It was contended that in support of her age ,the DLA submitted the School Leaving Certificate issued vide Admission Register serial number 280/13 by the Headmaster of Govt. Primary School ,Jambhel. A photo-copy of the Certificate filed on behalf of the OP would show that it was issued in favour Sumitra Bag. It was pointedly submitted at hearing on behalf of the OP that the SLC filed was a fake one. The complainant has not come forward to dispute this submission. In order to substantiate its contention the SLC was a fake one, the letter of the Headmaster of Govt. P.U.P. School , jambhel is filed . It would appear from the report of the Headmaster of the School that the name of the student entered against Serial No. 280/13 in the School Admission Register was Kumari Kumudini Bhue, daughter of Sri Bira Bhue at Jambhel. The above report of the Headmaster brings out the fakeness of the SLC filed by the DLA for taking the policy. An Electoral Roll is a public document and unless contrary is shown entries therein are presumed to be correct .The SCL being found not genuine, there is no other material countering the fact regarding the age of Sumitra Bag, the DLA. As already noticed, as per the Electoral Roll-2006, age of Sumitra Nag was 74 years in the year 2006 when Proposal for the policy was given by her. OP's submission that person above the age of 65 years is not eligible to take the Jeevan Anand policy having not been challenged , it follows that suppressing her actual age which was 74 years in 2006 and stating her age as 36 years on the basis of a fake School Leaving Certificate, the policy was taken by the DLA. Condition No 5 of Policy, a copy of terms & conditions of which has been filed on behalf of the OP, provides that if it is found that any untrue and incorrect statement is contained in the proposal, personal statement, declarations, then in every such case the policy shall be void and all claims to any benefit shall cease and all money that have been paid shall belong the Corporation. The materials placed on behalf of the OP had made it clear that making misstatement with regard to her age by grossly understating her age as 36 years on the basis of a fake Certificate which as has been found was issued in the name of someone else namely Kumari Kumuduni Bhue, the policy was taken by the DLA. Age being one of the eligibility criteria for the Jeevan Ananad policy, it is obvious that this part of information was material to the issue of the policy. It would then follow that had the DLA stated/disclosed her actual age which as per the Electoral Roll was 74 years in 2006, the policy would not have been issued in favour of the DLA. In the complaint being devoid of any merit is hereby dismissed.

.....

Bhubaneswar Ombudsman Centre

Complaint No. 24-017-1673 Death Claim

Sri Banshi Sethi, Vs Future Generali India Life Ins.Co. Ltd

Date of Award …… 20.08.2013

Fact: This is a complaint filed for repudiation of his Death-claim raised on the policy of Insurance of his father late Maheswar Sethy by the Insurer.

It is stated by the Complainant that his father-late Maheswar Sethy had on his life taken the Future Assure policy bearing No 00895262 of 10-year term commencing from 28.10,2011 with half-yearly installment of payment of premiums. His father, the Life Assured (LA), died on 13.01.2012.Consequent upon the death of LA, being the nominee under the policy, he applied for death-claim on 13.03.2012 at the OP's Bhubaneswar Branch. But the OP repudiated his claim assigning the reason that the deceased life assured had falsely mentioned his age as 58 years whereas his actual age was 71 years on the date of proposal. Being thus aggrieved, he has filed the complaint seeking relief of payment of death-claim to him by the OP-Insurer.

The OP stated that the maximum entry age for the life insurance policy under Future Assure plan taken by the LA by his Proposal form dated 25.10.2011 was 65 years. By investigation made after receipt of the death-claim which turned out to be an early death-claim, it was found from the website of the Office of the Chief Electoral Officer, Orissa that the age of the Life Assured was 71 years .Such age of the LA made him ineligible to take the policy. The life assured thus misrepresented his age to come within the range of permissible age limit for the policy. The contract of insurance was, therefore, vitiated by deliberate concealment of material facts. For such mis-statement of age of the Life Assured, the death claim of the complainant was repudiated.

Award

It is the admitted position that in proof of his age, the LA produced his Voter's Identity card and the PAN card. At hearing, the complainant produced the original Voter Identity card and submitted also the photo-copies of both Voter Identity card and PAN card. The PAN card reflects the date of birth of Sri Maheswar Sethy as 01.01.1953 and the Voter I. Card shows his age on 01.01.2002 as 49 years. When the Voter Identity card would be taken into consideration, the year of birth of Maheswar Sethy computes at 1953 which year is in conformity with the year of birth mentioned in the PAN card of Maheswar Sethy, the LA. This contention of the OP is based only on the information collected from the web-site of the office of the Chief Electoral Officer, Orissa. From the side of the OP, the Search Result for Assembly constituency 126/Khalikote(SC) is filed with the SCN. In this document, age of Sri Maheswar Sethy is noted as 71 (years).. If the age of the Maheswar Sethy was 49 years on 01.01.2002 how could it became 71 years in 2003. It is not clarified by the OP under what circumstances/basis the change in the age of the same person occurred from 49 years in 2002 to 71 years in the next year i.e., in 2003. As per the principles of evidence ,burden of proof lies on the party who asserts a particular fact. The fact that the LA was 71 years when the proposal was made by him being asserted by the OP ,the burden lies on it to substantiate that what was mentioned as regards to the age of the elector-Maheswar Sethy in the Search Result is correct and the information in the Voter Identity card and the PAN card as regards age is incorrect/false. Voter Identity card is a public document issued under the authority of Election Commission of India. The PAN

Card issued by the Income Tax Deptt. of the Govt. of India. Information contained therein carries the presumption of correctness and unless contrary is shown the same has to be accepted as correct. In the absence of any material warranting change in the age of the elector to 71 years in 2003, it would be difficult to give any credit to Search Result ignoring two other public documents in one of which date of birth is reflected and in another age is mentioned with both agreeing with each other as regards age of the Card-holder namely Sri Maheswar Sethy . On behalf of the OP no other material is placed to support its contention with regards to the age of the LA. It would therefore follow that the LA was around 58 years his date of birth being 01.01.1953 when the proposal for the policy was filed by him on 25.10.2011 When such a conclusion is reached, it would be obvious that the LA was clearly within the maximum eligibility year for taking the policy insofar as his age is concerned. Repudiation being made on the ground of overage and such contention of the OP being found not tenable, the complainant undeniably the nominee of the LA, is entitled to the death-claim under the policy . Hence, the complaint, is allowed. The OP is directed to settle the death claim of the Complainant in his favour in time.

Bhubaneswar Ombudsman Centre

Complaint No. 21-009-1698 Death Claim

Sri Dillip Kumar Dora, Vs Bajaj Allianz life Ins.Co. Ltd

Date of Award …… 30.08.2013

Fact: This is a complaint filed for repudiation of death-claim raised upon his uncle's policy of insurance by the Insurer.

It is stated by the Complainant that his uncle deceased E.Venkatrao Dora who was a bachelor and was residing with him had taken the policy of insurance bearing No 228902292 on his life from the Bajaj Allianz life Insurance Co. Ltd by making a deposit of premium of Rs 40,000/- .Due to massive heart stroke, the Life Insured died on 09.11.2011 at Mirapatna in Kendrapara. While examining the articles left by his deceased uncle, he came to know that he is the nominee for the policy. Thereupon, he filed the death-claim on 17.03.2012 with the OP submitting all necessary papers. On 29.08.2012 he (Complainant) requested the Company to provide him the details of the reason for repudiation of his claim but received no response thereto from the Company. Being thereby aggrieved, he has filed the complaint seeking relief of payment of the claim amount with interest and Rs.1,00,000/- as damages & Rs. 15,000/- as litigation expenses.

The OP stated that the Bajaj Allianz Invest Gain Economy policy bearing no 0228902292 taken by Mr. E. Venkatrao Dora which commenced from 03.08.2011 for a sum assured of Rs 5,35,000/- ran for a duration of 98 days .Investigation revealed that the

deceased Life Assured deliberately misrepresented the fact relating to his age in his proposal for the policy by submitting fake School Leaving Certificate(SLC) in proof of his age . As there was non-disclosure of material fact and fake age proof was given at the proposal stage, the death claim made on the policy was repudiated.

Award. It is contended by the OP that in proof of his own age, the LA had filed School Leaving Certificate. With the SCN, the photo-copy of the School Leaving Certificate of the LA described as Transfer Certificate issued on 21.07.1998 under Sl. No. 352 under the purported signature of the Headmaster of Sarada Nodal U.P. School, Nuadia has been filed.. It appears from the photocopy of the Transfer Certificate bearing serial No. 352 dated 21.07.1998 filed by the OP that it bears the endorsement of the Head Master of the Sarada Nodal U.P. School who has certified on the body of the Transfer Certificate that E.Venkatrao Dora S/O E.Ramudu Dora of GautamNagar, Koraput was not a student of Sarada Nodal U.P. School as per the School Admission Register bearing No. 38 dated 23.06.1963. It is further certified that no such type of Transfer Certificate bearing no. 352 dated 21.07.1998 has been issued by the School. The above endorsement made by the Head Master corroborates the contention of the OP and makes the position clear that the Transfer Certificate produced with the Proposal by the Proposer-LA was not genuine one. When the submission as to the fakeness of the Transfer Certificate in question was highlighted during the hearing from the side of the OP, the Complainant did not advance any contention touching upon this aspect. Thus, as per the material produced by the OP which stands out unchallenged, the Transfer Certificate filed by the LA with his Proposal was a fake one. As per policy conditions, issue age of the life to be assured is a material fact for the purpose of the policy. As by a using a fake document in proof of his age, the LA had deliberately mis-represented fact with regard to his own age to take the policy from the OP. In such circumstances, the OP would be lawfully entitled to refuse fulfillment of its obligation under the policy which is based on principles of utmost good faith between the contracting parties thereto. By using fake document to secure the policy from the OP, the time-honoured salutary principle of *uberrimae fides* in the matter contract of insurance was violated by the LA. Therefore, repudiation of the death claim of the complainant as has been made by the OP does not call for any interference. Hence the complaint being without any merit is hereby dismissed.

<u>Bhubaneswar Ombudsman Centre</u>
Complaint No. 21-001-1699 Death Claim
Anuradha Dash, Vs LIC of India Berhampur DO
Date of Award …… 19.08.2013

Fact: This is a complaint filed less payment of ROP(Refund Of Purchase-price) by Rs.7,280/-to her under the Annuity policy taken by her deceased grand-father- late Jaya Krishna Dash , by the Insurer.

Late Jaya Krishna Dash, who was her grand-father, had purchased the OP's Jeevan Akshay Annuity Policy under plan no.189 under single premium mode depositing Rs 1, 00,000/- with the OP-insurer . The policy which was assigned with the policy no.572911534 commenced from 13.05.2010.The Annuity-holder died on 20.06.2012. Being the nominee under the policy, she (Complainant) lodged the claim with the Insurer-OP for refund of purchase-price amounting to Rs 1, 00,000/- . But the insurer paid her Rs 92,720/- instead. The amount paid to her being less by Rs 7,280/-. (Rs.1, 00,000/- minus Rs.92, 720/-), complaining against such less payment of the death-claim, she represented to the higher Office of the OP but got no response. Feeling aggrieved, she has filed the complaint seeking relief of payment of balance amount of Rs 7,280/- along with interest for late payment of total death claim.

The OP stated that as per the procedure of settlement of annuity, when the premium amount is received through cheque, the date of vesting becomes the date of encashment of the cheque. The Annuitant-late Jaya Krishna Dash had deposited two cheques bearing nos.604117 &604119 both dated 06.05.2010 for the total sum of Rs.1,00,000/-each towards premiums in respect of policy nos.572911534 &572911535 respectively on 13.05.2010. The cheques were encashed on 21.06.2010.The date of vesting being the date of encashment, the date of vesting became 21.06.2010.The Annuitant having exercised his option to receive the Annuity on yearly mode, the annuity amount due for the broken period from 21.06.2010 to 30.06.2010 amounting to Rs.202/- and the yearly annuity installment of Rs.7, 280/- were paid to the Annuitant. The Annuity amount of Rs.7, 280/- due for July2011 payable in July 2012 was credited to the Bank A/c of the Annuitant by NEFT on 02.07.2012. The date of payment of the annuity was subsequent to the death of the Annuitant which occurred on 20.06.2012. The Annuitant having chosen annuity option- 'F' and nominee having not returned the annuity cheque or the amount thereof, a sum equivalent to the same i.e.,Rs.7,280/- was as per the terms & conditions of the plan recovered from the purchase price.

Award:

. It is the clear contention of the Complainant's representative at the hearing that the premium amount for the policy was deposited by the Demand Draft (DD for short) obtained on 06.05.2010 and the DD was deposited with the OP. In support of his contention regarding the taking of the DD for payment of premium, he has filed the photo-copy of the Demand Draft of U.Co, Bank for Rs. 1, 00,000/- drawn on 06.05.2010 in favour of LIC of India. The DD bears the no 604122 and it shows that DD for Rs.1, 00,000/- was taken from U Co. Bank on 06.05.2010 in favour of LIC of India. In its revised SCN, the OP has stated that the Annuitant deposited cheques nos. 604117 and 604119, both dated 06.05.2010 each for Rs. 1, 00,000/- in respect of policy nos. 572911534 & 572911535 respectively on 13.05.2010. Though the complainant says that he made the deposit of premium through DD, the version of the OP is that the payment was made by cheque. Except this, there is no other controversy with regard to the deposit document number, date of deposit and the amount deposited. When at the time of hearing a copy of the DD was submitted by the complainant's representative, no submission countering the above contention was made on behalf of the OP. Though it is contended by the OP that cheque was given for deposit of premium, no document is filed to dislodge the documentary evidence produced by the Complainant's representative in support of his contention that

the payment of premium was made by Demand Draft. The date of DD & the draft amount mentioned therein clearly conform to such particulars as given in respect of the Annuity policy in question in the revised SCN of the OP. The photo-copy of the Demand Draft filed by the Complainant's representative during the hearing fully corroborates the complainant's version that the premium amount was paid by Demand Draft and not by cheque as contended by the OP. On the above materials, the conclusion to follow would necessarily be that the premium on the annuity policy was paid by Demand Draft and not by cheque.In the Status Report issued on 27.09.2012 on the policy , the date of commencement of the policy was also mentioned as 13.05.2010 and maturity date as 05/2010. Thus, as per the procedural norms prescribed by the OP, in respect of Immediate Annuity Plan, the first annuity is payable one year after date of purchase. In the case in hand, the date of commencement of the policy was 13.05.2010.The date of purchase of the policy under Immediate Annuity plan by the by late Jaya Krishna Dash being 13.05.2010, the first annuity was payable to him on 13.05.2011 and the second one on 13.05.2012. The Annuitant's death having occurred on 20.06.2012, the Annuitant thus died subsequent to the date when the second annuity on the policy became due for payment. Such being the factual position, there was absolutely no justification on the part of the OP to deduct the 2nd annuity amount from the Refund of Premium amount payable on the death of the Annuitant. The complainant is, therefore, entitled to get refund of Rs. 7,280/- from the OP which the latter has unjustly deducted from the ROP amount paid to the Complainant-nominee. IRDA (Protection of policy holders' Interests) Regulations 2002 mandates under Regulation 8 (3) that claim under life policy shall be paid within 30 days from the date of receipt of all relevant papers and clarifications ,if any required. The claim was filed by the complainant on 20.07.2012 and the amount after deduction was paid to him settled on 28.11.2012. Thus, more than four months after lodging of the claim, the refund of premium amount was made. Nothing been attributed to the complainant by the OP for such delay in payment of the claim, the latter is liable to pay interest at the penal rate to the complainant for the period of delay on the amount already paid i.e. on Rs. 92,720/- and to pay interest at the similar rate on the deducted amount of Rs. 7,280/- from the date due to the date of payment. Hence, the complaint, is allowed. The OP is directed to refund Rs. 7,280/- with penal interest from the date of lodging of the claim by the complainant till payment and to pay penal interest for the period of delay in payment of ROP amount of Rs. 92,720/- for the period from 20.07.2012 to 28.11.2012 to the complainant in time.

.....

Bhubaneswar Ombudsman Centre

Complaint No. 21-001-1700 Death Claim

Ajaya Kumar Dash, Vs LIC of India Berhampur DO

Date of Award …… 19.08.2013

Fact: This is a complaint filed less payment of ROP(Refund Of Purchase-price) by Rs.7,280/-to him under the Annuity policy taken by her deceased grand-father- late Jaya Krishna Dash , by the Insurer.

Late Jaya Krishna Dash, who was his grand-father, had purchased the OP's Jeevan Akshay Annuity Policy under plan no.189 under single premium mode depositing Rs 1, 00,000/- with the OP-insurer . The policy which was assigned with the policy no.572911535 commenced from 13.05.2010.The Annuity-holder died on 20.06.2012. Being the nominee under the policy, he (Complainant) lodged the claim with the Insurer-OP for refund of purchase-price amounting to Rs 1, 00,000/- . But the insurer paid him Rs 92,720/- instead. The amount paid to him being less by Rs 7,280/-. (Rs.1, 00,000/- minus Rs.92, 720/-), complaining against such less payment of the death-claim, he represented to the higher Office of the OP but got no response. Feeling aggrieved, he has filed the complaint seeking relief of payment of balance amount of Rs 7,280/- along with interest for late payment of total death claim.

The OP stated that as per the procedure of settlement of annuity, when the premium amount is received through cheque, the date of vesting becomes the date of encashment of the cheque. The Annuitant-late Jaya Krishna Dash had deposited two cheques bearing nos.604117 &604119 both dated 06.05.2010 for the total sum of Rs.1,00,000/-each towards premiums in respect of policy nos.572911534 &572911535 respectively on 13.05.2010. The cheques were encashed on 21.06.2010.The date of vesting being the date of encashment, the date of vesting became 21.06.2010.The Annuitant having exercised his option to receive the Annuity on yearly mode, the annuity amount due for the broken period from 21.06.2010 to 30.06.2010 amounting to Rs.202/- and the yearly annuity installment of Rs.7, 280/- were paid to the Annuitant. The Annuity amount of Rs.7, 280/- due for July2011 payable in July 2012 was credited to the Bank A/c of the Annuitant by NEFT on 02.07.2012. The date of payment of the annuity was subsequent to the death of the Annuitant which occurred on 20.06.2012. The Annuitant having chosen annuity option- 'F' and nominee having not returned the annuity cheque or the amount thereof, a sum equivalent to the same i.e.,Rs.7,280/- was as per the terms & conditions of the plan recovered from the purchase price.

Award:

. It is the clear contention of the Complainant's representative at the hearing that the premium amount for the policy was deposited by the Demand Draft (DD for short) obtained on 06.05.2010 and the DD was deposited with the OP. In support of his contention regarding the taking of the DD for payment of premium, he has filed the photo-copy of the Demand Draft of U.Co, Bank for Rs. 1, 00,000/- drawn on 06.05.2010 in favour of LIC of India. The DD bears the no 604122 and it shows that DD for Rs.1, 00,000/- was taken from U Co. Bank on 06.05.2010 in favour of LIC of India. In its revised SCN, the OP has stated that the Annuitant deposited cheques nos. 604117 and 604119, both dated 06.05.2010 each for Rs. 1, 00,000/- in respect of policy nos. 572911534 & 572911535 respectively on 13.05.2010. Though the complainant says that he made the deposit of

premium through DD, the version of the OP is that the payment was made by cheque. Except this, there is no other controversy with regard to the deposit document number, date of deposit and the amount deposited. When at the time of hearing a copy of the DD was submitted by the complainant's representative, no submission countering the above contention was made on behalf of the OP. Though it is contended by the OP that cheque was given for deposit of premium, no document is filed to dislodge the documentary evidence produced by the Complainant's representative in support of his contention that the payment of premium was made by Demand Draft. The date of DD & the draft amount mentioned therein clearly conform to such particulars as given in respect of the Annuity policy in question in the revised SCN of the OP. The photo-copy of the Demand Draft filed by the Complainant's representative during the hearing fully corroborates the complainant's version that the premium amount was paid by Demand Draft and not by cheque as contended by the OP. On the above materials, the conclusion to follow would necessarily be that the premium on the annuity policy was paid by Demand Draft and not by cheque.In the Status Report issued on 27.09.2012 on the policy , the date of commencement of the policy was also mentioned as 13.05.2010 and maturity date as 05/2010. Thus, as per the procedural norms prescribed by the OP, in respect of Immediate Annuity Plan, the first annuity is payable one year after date of purchase. In the case in hand, the date of commencement of the policy was 13.05.2010.The date of purchase of the policy under Immediate Annuity plan by the by late Jaya Krishna Dash being 13.05.2010, the first annuity was payable to him on 13.05.2011 and the second one on 13.05.2012. The Annuitant's death having occurred on 20.06.2012, the Annuitant thus died subsequent to the date when the second annuity on the policy became due for payment. Such being the factual position, there was absolutely no justification on the part of the OP to deduct the 2nd annuity amount from the Refund of Premium amount payable on the death of the Annuitant. The complainant is, therefore, entitled to get refund of Rs. 7,280/- from the OP which the latter has unjustly deducted from the ROP amount paid to the Complainant-nominee. IRDA (Protection of policy holders' Interests) Regulations 2002 mandates under Regulation 8 (3) that claim under life policy shall be paid within 30 days from the date of receipt of all relevant papers and clarifications ,if any required. The claim was filed by the complainant on 20.07.2012 and the amount after deduction was paid to him settled on 28.11.2012. Thus, more than four months after lodging of the claim, the refund of premium amount was made. Nothing been attributed to the complainant by the OP for such delay in payment of the claim, the latter is liable to pay interest at the penal rate to the complainant for the period of delay on the amount already paid i.e. on Rs. 92,720/- and to pay interest at the similar rate on the deducted amount of Rs. 7,280/- from the date due to the date of payment. Hence, the complaint, is allowed. The OP is directed to refund Rs. 7,280/- with penal interest from the date of lodging of the claim by the complainant till payment and to pay penal interest for the period of delay in payment of ROP amount of Rs. 92,720/- for the period from 20.07.2012 to 28.11.2012 to the complainant in time.

Bhubaneswar Ombudsman Centre

Complaint No. 21-001-1696 Death Claim

Smt.Lalita Rohidas, Vs LIC of India, Sambalpur DO.

Date of Award …… 03.09.2013

Fact: This is a complaint filed for repudiation of death-claim raised upon her husband's policy of insurance by the Insurer.

The Complainant stated that her husband late Janardan Rohidas had taken on his life the policy of insurance No. 591709838 under table &term no.150-20 commencing from 15.07.2002 from the OP-insurer for a sum assured of Rs.5,00,000/- .The Life Assured Janardan Rohidas died on 12.05.2010 . Being the nominee of her deceased husband, she(Complainant) applied for the death-claim to the Insurer-OP who repudiated her claim on the ground that the deceased life assured had not disclosed in his Personal Statement Regarding Health at the time of revival of policy the fact of his suffering from Coronary Artery Disease.

The OP stated that due to non-payment of yearly premium, the policy lapsed from July, 2007.It was revived on 10.05.2010 upon payment of 3 years premiums at a time. The Life Assured died on 12.05.2010. Since two days after the revival of the policy death of the Life Assured occurred, the death-claim investgation revealed that in the Proposal the deceased Life Assured had suppressed material facts regarding his occupation, period of his service & age inasmuch as he had mentioned his profession as service at MCL and service period as 1 year though his actual occupation was cultivation and that he never joined in the service. The School Leaving Certificate produced by him in proof of his age was a false one. But on the basis of the statement with declaration made by the Life to be Assured, the Proposal was accepted under 'non-medical special' category without asking for his medical examination. By above mis-statement and concealment of material facts, the DLA misled the OP to accept the proposal which it would not have accepted under non-medical special category had the correct facts been disclosed before it. Furthermore, at the time of revival of the policy, the DLA concealed the facts about his suffering from Coronary Artery Disease and taking of medicines for his heart problem .The information collected from Tata Refractories Ltd. Hospital, Belpahar which refused to provide details of the treatment received by the DLA revealed the above condition in him. .As material facts with regard to his service, age, health & treatment were suppressed by the DLA entailing in breach of contractual principle of utmost good faith by him (DLA),the death-claim made by the Complainant was rightly repudiated by it.

Award:

The material documents filed by the OP makes it clear that the LA- Janardan Rohidas was suffering from C.A.D. for some length of time before his death but this fact was denied at the time of revival of the policy in the PSRH by the L.A. It would thus follow that in the PSRH a false answer was recorded by the LA for revival of his lapsed policy. The LA having furnished incorrect and untrue facts in the PSRH filed for revival of the policy, repudiation of the death-claim based on the policy as has been made by the OP, is neither unjust nor inappropriate. Hence the complaint being without merit is hereby dismissed.

CHANDIGARH

Chandigarh Ombudsman Centre

CASE NO. Shriram/1099/Hyderabad/Jalandhar/21/11

In the matter of Smt. Baljit Kaur Vs Shriram Life Ins. Co. Ltd.

Order Dated: - 29.07.2013 **Death Claim**

Facts: - **Smt. Baljit Kaur had filed a complaint about a settlement of a death claim of her husband Late Shri Bachitter Singh who expired on 31.07.2010 bearing policy number 131000072957 dated 24.06.2010, which was repudiated by the company on the ground of non-disclosure of material facts.**

Findings: - **The insurer in its reply clarified that during an investigation, it was observed that the deceased life assured was suffering from HTN since 7 years as per his admission on 24.07.2010 at Kidney Hospital, Jalandhar and life line Medical Institute Jalandhar. Due to non disclosure of material facts, the case was repudiated.**

Decision: - **Held that the company's submission of non-disclosure of material facts does not bear any significance merely on productive of history of hypertension from 7 years as per admission certificate issued by Kidney Hospital, Jalandhar after commencement of insurance. A close look and a perusal of the documents establishes that there is no**

evidence of deceased life assured suffering from CRF prior to 24.07.2010. As regards, hypertension a mere reference of history will not suffice in exclusively proving the existence of disease prior to insurance. Keeping aside the repudiation of claim by the insurer, the company is directed to settle the death claim.

GUWAHATI

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/L03/051/12-13/Ghy

Mr. E. Biju Kr. Singh

- Vs -

Tata AIA Life Insurance Co. Ltd.

Date of Order : 10.07.2013

Complainant : The Complainant stated that his wife Mrs. Anita Devi procured Policy No. C220254089 from the above Insurer with the commencement on 24.03.2005 for a Sum Assured of Rs.1,00,000/-. The Insured died on 29.12.2011 while the policy was in force. Thereafter, he, being the nominee under the policy, lodged a claim before the Insurer along with all supporting documents. But, the Insurer has informed him that they have got no liability to pay the claim as the policy remained lapsed on the date of death of the Insured. Being aggrieved, he has lodged this complaint.

Insurer : The Insurer has stated in their "Self Contained Note" that on scrutiny of claim documents, the annual mode of premium due on 19.03.2011 was not received by them therefore the said policy lapsed. As the policy remained lapsed on the date of death of the Life Assured, they have no liability under the said policy. They also stated that they have sent Premium Payment Notice dated 17.02.2011 to the Life Assured to pay the premium due on 19.03.2011. However, they did not receive the premium hence they again sent a Lapse Notice dated 19.04.2011 to L/A. Despite the said notice, the Life Assured did not reinstate the policy. Hence based on the above facts and records, the Insurer has declined the

claim on the ground of policy lapsed as on date of death and informed to the claimant through decline letter dated 08.05.2012.

Decision : It discloses from the copy of policy document that the mode of payment premium under the above policy was "Yearly" and the due month was March every year. The Insured did not pay the premium due on March, 2011 and due to non-payment of premium the policy became lapse. The Insurer issued Premium Payment Notice on 17.02.2011 to the Insured for payment premium amount of Rs. 10,780.98 including interest. The Insurer also issued lapse notice on 19.04.2011 to the Insurer for reinstate of the lapsed policy. In spite of that the Insured neither paid the premium amount nor revive the policy. The copy of Death Certificate issued from the Department of Health Services discloses that the Insured Anita Devi died on 29.12.2011. It is ample clear that at the time of death of the Insured Anita Devi the policy was in lapsed condition. It is clearly mentioned in the policy terms and conditions that a grace period of thirty – one days from the due date will be allowed for payment of each subsequent premium. The policy will remain in force during the period. If any premium remains unpaid at the end of its Grace Period, the policy shall lapse and have no further value except as may be provided under the Non-Forfeiture Provisions.

Considering the above aspects, it is found that as the policy was in lapsed condition on the date of death of the Insured i.e. on 29.12.2011, the Insurer's decision that the claim is not payable, cannot be said to be unjustified. Finding no ground to interfere with the decision of the Insurer, the complaint is treated as closed.

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/L006/98/L/12-13/Ghy

Mr. Bubul Kalita

- Vs -

Birla Sun Life Insurance Co Ltd.

Date of Order : 30.09.2013

Complainant : The complainant stated that his mother Nabalata Kalita procured two policies bearing Nos. 003898347 and 004766174 from the Birla Sun Life Insurance Co. Ltd. While the policies were in force, his mother died on 16.07.2011. The Complainant, being nominee, lodged death claims before the Insurer along with all supporting documents. But, the Insurer has repudiated the claims without any justified reason. Being aggrieved, he filed this complaint.

Insurer : The Insurer stated that they Investigated the case through their Investigator. On investigation, it was found that the death certificate submitted by the Complainant is

fake document as LA had died six months prior to the date of death as shown in the death certificate. The village Head Sri Naren Chandra Kalita confirmed in his letter head as well as death certificate that that the said certificate was falsely prepared as the LA died six months before the date of death mentioned in the death certificate. Investigation further revealed that the Life Assured had falsely declared her age as around 51 years in the Application forms. As per the voter list for the Vidhab Sabha election 2010, age of Insured was 63 years and voter list of 2011 the age of Insured was 65 years.

<u>Decision</u> ; It reveals that the Insurer had accepted both the application for insurance on the basis of Self Declaration and age was admitted as 50 years. But their Investigator during his investigation found that age of Life Assured was 63 years as per Voter list of 2010. It is ample clear that the Insurer had accepted and calculated the age of the Insured on the basis of Self Declaration. When the claim arose the Insurer declined the claim of the Complainant basing the age on the Voters List. But Voter list is not a standard age proof on the basis of which final decision can not be derived. While accepting the proposals, Insurer could have used voter list age proof as the Life Assured does not have standard age proof. Again the Insurer has stated that the death certificate submitted by the Complainant was a fake document and that was falsely prepared as the Life Assured died six months before the date of death as mentioned in the document. For this the Insurer could not obtained any documentary evidence except a suspicious writing on the body of the certificate issued by Village headman. This statement of decertification can not treated as genuine. Any body can Xerox and sign like this. That apart the Complainant has brought a fresh certificate from the same Village Headman where he clearly stated the Nabalata Kalita died on 16.07.2011. This nullifies the claim of the Insurer that the Village Headman certifies that the certificate was fake. Moreover, the death certificate no.0532840 issued by the Department of Health Services, Govt. of Assam has been refuted by Mr. Sushanta Kashyap, Branch Head, Birla Sun Life Insurance Co.Ltd. Mere writing or giving comment on the body of the certificate issued by Govt. Deptt. can not be treated as a valid document and it is not acceptable. If the Insurer had any doubt, they could have brought written document from the Office of the concerned department who issued the certificate.

Considering the entire facts and circumstances as discussed above, I am of the view that decision of repudiation by the Insurer is not just and proper. Hence, decision of repudiation of the claim by the Insurer is set aside. The Insurer is liable to pay the entire claim amount to the Complainant along with penal interest. Insurer is accordingly directed to settle the claim within 15 days allowing penal interest @ 8% P.A. on the premium amount.

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/006/84/L/12-13/Ghy

Mr. Tapan Bora

- Vs -

Birla Sun Life Insurance Co Ltd

Date of Order : 26.07.2013

Complainant : The Complainant stated that his mother Mrs. Ghanamai Bora procured a policy bearing no.004871868 from Birla Sun Life Insurance Co. Ltd. with the date of commencement on 10.5.2011 for a sum assured of Rs.1,01,000/-. While the policy was in force, Mother Ghanamai Bora died on 21.01.2012. Being the nominee of the concerned policy, lodged a claim before the Insurer along with all supporting documents. But the Insurer has repudiated the claim with out any justified ground. Being aggrieved, he lodged the complaint.

Insurer : The Insurer stated that on receipt of claim papers from the Complainant they made an enquiry and found that the Insured was suffering from Hypertension prior to the commencement of the policy and Insured had also suppressed and understated her actual age in the proposal form. Although the nominee Tapan Bora under the policy was mentioned as"Son"in the Proposal form but the nominee was a "Son-in –law" of the Insured. Further, the policy was introduced under Salary deduction payment method and Insured employer stated as "Zikmik Selp Help Group, NGO" but no such NGO was found in that locality. In view of the above facts and circumstances, they have repudiated the claim.

Decision : After careful verification of all records, statements and evidences ,it is crystal clear that there is huge difference of age with the voter list of 2013. In the said voter list, the age of Ghanamai Bora is mentioned as 67 years; where in the LA stated her age as 45 years at the time of taking the proposal. Further the voter list contains the name of the nominee / complainant Mr.Tapan Bora, s/o. Harendra Nath Bora whose age is mentioned as 36 years. Moreover, in the said voter list the name of Ghanamai Bora (LA) w/o. Lt.Gomadhar Bora is enlisted. But as per PAN card and voter list, the name of father of Sri Tapan Bora is stated as Harendra Nath Bora not Gomadhar Bora. Therefore, the relationship to LA with the nominee is mentioned as "son" which is also tantamount to suppression of facts. Further as per PAN card of the nominee/complainant , Mr Tapan Bora ,the date of birth is stated as 15.1.1974 i.e.37 years as on application signed date and Life Assured's age is 45 years. The mother is older than her son by 8 years only which is unscientific and baseless.

In view of the above facts, it can be opined that the decision of the Insurer for repudiation of the claim can not be stated as unjustified.

Considering the entire facts and circumstances of the case, I am of the view that the Insurer has rightly repudiated the claim of the Complainant. Finding no interference with the decision of the Insurer, the complaint is dismissed and is treated as closed.

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/L006/088/12-13/Ghy

Smt. Asma Begum

- Vs -

Birla Sun Life InsuranceCo.Ltd.

Date of Order : 04.04.2013

Complainant : The deceased Life Assured Nowshad Ali procured a policy bearing No. 005037809 with the date of commencement on 22.08.2011 for a Sum Assured of Rs.7,00,000.00. While the policy was in force, the insured expired on 02.011.2011. The Complainant, being the nominee under the policy, lodged a claim before the Insurer along with all supporting documents. But. the Insurer has repudiated the claim without any justified ground. Being aggrieved she has lodged this complaint.

Insurer : The Insurer contended that the Insured was suffering from Diabetes Mellitus and Hypertension prior to the commencement of the policy. But, the Insured did not disclose his ailments in the Application Form.

Decision : It is apparent from the copy of Claimants Statement that the Insured Nowshad Ali died on 02.11.2011 in GNRC Hospital, Guwahati due to Diabetes Mellitus II CAD Sepsis. As the claim was very early, the Insurer made an enquiry regarding death claim and detected that the deceased life assured was suffering from various ailments like Diabetes Mellitus II, CAD & Sepsis. In support of the contention of the Insurer, they produced some treatment particulars of the Insured Nowshad Ali like the prescription dated 22.01.2011 issued by Dr. R.K. Baruah, Guwahati, Urine Examination Report & Bio-chemical report dated 23.03.2011 & the prescription dated 23.03.2011 issued by Dr. (Mrs.) S. Dutta Choudhury, Guwahati.

It is abundantly clear that the Insured suppressed particulars of his ailments which were quite material for consideration at the time of accepting the proposal. Therefore, the Insured was guilty of non disclosure of "Utmost Good Faith" violating the principle of contract of insurance. The Insurer has rightly repudiated the claim of the Complainant and I find no scope to interfere with the decision of the Insurer. With the above observation, the complaint is treated as closed.

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/001/108/L/12-13/Ghy

Mrs. Bhanumati Kalita

- Vs -

Life Insurance Corporation of India

Date of Order : 06.05.2013

Complainant: The Complainant stated that her husband Pabitra Kr. Kalita procured Policy Nos. 484408768, 484363421 & 484363422 from the Life Insurance Corporation of India. While the policies were in force, her husband died on 3010.2010. Being nominee under the policies, the Complainant lodged claims before the Insurer alongwith all supporting documents. But, the Insurer has repudiated the claims on medical ground. Hence, the nominee lodged this complaint.

Insurer : The Insurer contended that the deceased life assured proposed for insurance of the Policy Nos. 484408768, 484363421 & 484363422 on 24.05.2010 and 26.05.2008 respectively. In answering Q. No. 11 (i, ii, iii, iv & v) of the proposal forms, the life assured suppressed the history of suffering and answered the Q. No. 11 (iv) of the personal history as "Good". From Medical Attendance Certificate (in claim form B) it is evident that the primary cause of death was chronic liver disease with U.G.I Bleed. From claim form E (Certified by Employer) it is evident that deceased life assured availed sick leave for several times from 21.07.2005 to 10.07.2010 and the DLA take treatment from several Hospital.
In view of the aforesaid facts and circumstances it is quite evident that the deceased life assured suppress the history of suffering. Therefore, the claims were repudiated by their letters dated 30.03.2012 and 21.01.2013 respectively.

Decision : The Insurer has mentioned in their "Self Contained Note" that in the proposals for insurance received by them on 26.05.2008 & 24.05.2010, the Proposer / DLA answered in the negative as regards Question Nos. i, ii, iii, iv & v and answered the Q. No. 11 (ix) of the personal history as "Good" of the proposal form and according to the Insurer, the above answers were absolutely false as they have evidence to prove that the Life Assured was suffering from Chronic Liver Disease with U.G.I. Bleed to inception of the policy and was on medical treatment for the same which she had suppressed in the proposal forms. The representative of the Insurer stated that the Life Assured took sick leave several times and he took treatment for various ailments. In support of his contention, he has produced Certificate by Employer and some medical documents from International Hospital, Guwahati and Wintrobe Hospital, Guwahati. These medical certificates make it ample clear that the DLA was admitted in above Hospitals from 29.08.2006 to 03.09.2006 and from 27.08.2006 to 29.08.2006 respectively. The disease of the patient was diagnosed with CAD with Portal Hypertension and Acute on Chronic

Renal Insuff (I) with stage III HTN. These were the medical history of the patient taking medical treatment for the above diseases prior to the date of inception of the policy and I see no ground to disbelieve it.

All these above make it ample clear that the DLA suppressed the material information regarding his illness in the proposal forms. The Insurer has rightly repudiated the claims of the Complainant and I find no scope to interfere with the decision of the Insurer. With the above observation, the complaint is treated as closed.

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/L001/008/13-14/Ghy

Smt Manju Devi

- Vs -

Life Insurance Corporation of India

Date of Order : 28.08.2013

Complainant The Complainant stated that her son Satyajit Koushik an Agent of LICI under Nagoan Branch who died on 28.07.2012 having three policies mentioned above under Agent Commission Saving Scheme. When she submitted necessary claim papers to the Insurer, the Insurer only paid Paid-Up Value through NEFT to her Bank Account for the reason there was Gap premiums on those three policies. According to her no lapse notice was served nor there was any gap premium under those policies and Insurer should settle full Sum Assured as per terms and conditions. Being aggrieved by the decision of the Insurer, the complaint has been lodged.

Insurer : The Insurer stated that on the date of death (28.07.2012) of the life Assured Satyajit Koushik under Pol. Nos. 483390704, 483674521 and 483675676 there were 20, 15 and 20 gaps respectively and since No. of gaps were more then 12 in each of the policy so paid up value of the policy paid to the nominee as per policy condition. In this respect they have submitted machine generated status report of each policy.

Decision; After careful verification of all records and statements, it is evident that deceased Life Assured Satya Jit Kaushik was an agent of LICI and premiums against his above mentioned policies were deducted from his commission every month up to 12/2012. However, in some months premium were not received by the Insurer for which policies were in lapsed condition. Now, question comes if there is any short fall of premium, what effort was taken by the Insurer to get the premium. If there was any short fall of commission, whether policy holder was asked to deposit the premium. Moreover, if the policies were lapsed, whether lapse notice was served or any communication regarding lapsation was made to the policy holder. It is crystal clear that Insurer has not done anything in this regard as the Insurer has failed to produced any letter or

lapse notice requesting the Insured to deposit his premiums before this Authority. Therefore, policy holder should not suffer for the fault of the Insurer. The Insurer is liable to pay the full claim amount under all the above policies.

Insurer is accordingly directed to settle the claims within 15 days allowing penal interest @ 8% P.A. on the premium amount.

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/L003/136/12-13/Ghy

Mrs. Moni Borah Dutta

- Vs -

TATA AIA Life Insurance Company Ltd.

Date of Order : 20.09.2013

Complainant : The Complainant stated that her mother-in-law Mrs. Puspa Dutta obtained Policy Nos. U167367330 & C211661445 from the Tata AIA Life Insurance Co. Ltd. date of commencement on 03.02.2011 and 28.12.2010 for Sum Assured of Rs. 6,99,300/- and Rs. 2,24,000/- respectively. While the policies were in force, the Insured died on 09.11.2011. She, being the nominee under the above policies, lodged a claim before the Insurer along with all supporting documents. But, the Insurer has repudiated the claim on the ground that the Proposer had concealed the material particulars about his age in the proposal forms which had adversely affected the Insurance Company in underwriting the proposals. Being aggrieved, she has lodged this complaint.

Insurer : The Insurer contended that at the time of application LA mentioned her date of birth as 16.05.1961 and admit card of SEBA Assam was provided in support of her age which was found Fake document and this was confirmed from board office record. Moreover Insurer further stated that as per electorate Voter list 2011 LA age was 70 years which is way beyond insurable, hence claim declined for misstatement of age and they have repudiated the claim on the ground of suppression of age and submission of fake document at the application stage.

Decision : It appears from the "Self Contained Note" as well as from the statement of the representative of the Insurer that the Admit Card submitted by the Insured at the time of Application / Proposal form is not genuine which was confirmed by the Board of Secondary Education, Assam vide their letter Ref : SEBE/TECH/VERI/1/95/481 dated 10.09.2012. On perusal of the copy of Admit Card Verification letter from Board of Secondary Education, Assam, it appears that the letter signed by the Registrar, Board of Secondary Education, Assam clearly stated that the Admit Card issued in the name of Puspa Dutta does not tally with the

Roll and No.. Considering the discrepancies noted in the certificate itself, I find reasons to believe the same to be not reliable. Apart from that, the Insurer has produced copies of voters lists for the year 2005 and 2011 wherein the Insured's age was shown as 61 years and 70 years respectively. The Insurer further stated that if the correct age was declared at the time of issuance then the policy would not have been issued, hence the claim was declined for misstatement of age and for submission of fake document at the application / proposal stage. Repudiation of the claims under the aforesaid policy by the Insurer for such material suppression cannot be said to be irregular and on unjustified ground.

In view of the above facts and circumstances, I find no material to interfere with the decision of the Insurer and accordingly the complaint is treated as closed.

KOCHI

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-250/2012-13

Syamaladevi

Vs

LIC of India

AWARD No. IO/KCH/LI/19/2013-14 dated 20.05.2013

The husband of the complainant was an employee of M/s Sakthi Paper Mills Ltd. and he disappeared from 22.09.2007. A crime was registered for man missing. The claim for death benefit under Master policy (Group) was not settled by the Respondent- Insurer. Therefore, the complaint.

The complainant submitted that as per Office Memorandum of Ministry of Personnel, PG & Pensions GOI, family pension to the family of missing employee shall be sanctioned after the expiry of 6 months of registration of FIR with the police. Here more than 5 years have elapsed from the date of FIR. So the insurer is liable to release the payment.

The insurer submitted that death benefit under the policy is Rs. 62000/- and Presumption of death can be drawn only on the expiry of 7 years from the date of missing. There after a decree from the court is to be produced for settling the death benefit. Here the period of 7 years is not over.

Decision:- The Office Memorandums produced from the side of the complainant are relating to benefits available to Govt. servants and pensioners. The Group Insurance Scheme is the outcome of a contract entered into between the Co. and the insurer. The contractual obligations arising out of the master policy are controlled and governed by the policy conditions. The Office memorandum has no application with this contract. The presumption of death as contemplated under Section 108 of Indian Evidence Act can not be drawn for the time being. Death of the member could not be legally established by the complainant. So, the rejection of the benefits under the policy can not be said to be illegal or irregular. In the result, the complaint is dismissed. No cost.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-002-947/2011-12

S Rajeswari

Vs

SBI Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/23/2013-14 dated 30.05.2013

The son of the complainant had taken a Dhanaraksha Plus policy from the Respondent-Insurer in relation to a car loan availed by him. He died on 27.09.2011 and the death claim was repudiated by the insurer on the ground of suppression of material facts regarding health at the time of taking the policy. Therefore, the complaint.

The complainant submitted that her son had not suppressed any material fact while applying for the policy and the repudiation of the claim is illegal and irregular.

The insurer submitted that enquiries revealed that the insured had undergone treatment for DM and its complications even prior to the submission of the proposal form. In the proposal form and the Declaration of Good Health, he had not disclosed the fact that he was a Diabetic. That suppression relates to material fact and had vitiated the policy. Hence the insurer has no liability to honour the claim.

Decision:- It is well settled law that the insured has a duty to observe utmost goodfaith while submitting the proposal form for issuance of the policy. As per IRDA Regulation, 2002, the word "material" means and includes all important, essential and relevant

information in the context of guiding the insurer to decide whether to undertake the risk or not. Discharge summary for the period 25.05.2010 to 15.06.2010 reveals that he was diagnosed and treated for various complications of DM. There is convincing evidence that he had undergone treatment for DM and its complications prior to the submission of the proposal form and suppressed those material facts at the time of submission of the proposal form. So, evidently, the insured did not act in Good Faith while applying for the policy. Suppression of material fact with knowledge would amount to fraud and fraud would vitiate a contract of insurance. So, the policy issued to the insured is vitiated and the insurer is exonerated from liability to provide the benefits under the policy. The repudiation of the claim is legal and proper and therefore, sustainable. In the result, the complaint is dismissed. No cost.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-017-145/2013-14

Vasantha

Vs

Future Generalie India Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/35/2013-14 dated 19.06.2013

The complainant's husband had taken policy from the Respondent-Insurer in 2009 for Sum Assured of Rs. 50000/-. He had paid 3 Half Yearly premiums. He died on 4.02.2011 while the policy was in force. Death claim submitted by the complainant was repudiated by the insurer. The complainant approached the Grievance Cell and received a reply dated 18.08.2011 upholding their earlier decision. . Thereafter she filed a complaint before this forum on 13.05.2013.

Decision:- As per Rule 13 (3) (a) & (b) of RPG Rules, as the present complaint is filed before this Forum on 13.05.2013, beyond one year from 18.08.2011, the complaint is barred by limitation. In the result, the complaint is dismissed as barred by limitation.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-967/2011-12

Devaki Amma

Vs

LIC of India

AWARD No. IO/KCH/LI/36/2013-14 dated 21.06.2013

Smt. Shylaja, daughter of the complainant had taken Endowment policy from the Respondent-Insurer with Sum Assured of Rs. 1 lac. Smt. Shylaja accidentally fell into a well and died due to drowning on 21.09.2008. The police released the body with out Post-Mortem. The death claim was settled by the insurer for basic sum assured only. Accident benefit was not settled. Therefore, the complaint.

The complainant submitted that when the insurer was convinced that the death was not due to suicide and settled the basic sum assured, there is no reason for not paying the Accident Death Benefit provided under the policy. There are sufficient materials to conclude that the Life Assured died due to drowning and she fell into the well accidentally.

The insurer submitted that as there is no reliable evidence to show that the death was due to accident, they rightly denied Accident benefit to the claimant and their action is legal and proper.

Decision:- Admittedly, the basic sum assured plus Bonus was paid to the complainant though the death happened within one year from the date of commencement of the policy. So, in view of the suicide Clause 6, for all practical purposes, the insurer had treated the death, not as suicidal one. The victim fell into the well and the death was due to drowning. By allowing the basic Sum Assured and bonus, the insurer had impliedly admitted the death as an accidental one. The Certificate issued by the S.I. of Police also points to the fact that the death was due to accident. The insurer by their own showing had ruled out death due to suicide. Now , they can not deny the Accident Benefit stating that there is no satisfactory evidence regarding accidental death. The satisfaction contemplated is objective satisfaction based on evidence and circumstances and not

subjective satisfaction of the concerned Officer of the insurer. There are sufficient materials to conclude that the death was due to accidental drowning. In the result, an award is passed directing the insurer to pay Rs. 1 lac to the legal heirs of the deceased complainant Smt. Devakiamma, within the prescribed period on production of Legal heir Certificate from the competent authority, No cost.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-993/2011-12

Bashariya

Vs

LIC of India

AWARD No. IO/KCH/LI/37/2013-14 dated 21.06.2013

Son of the complainant had taken Endowment policy from the Respondent-Insurer with Sum Assured of Rs.50000. He died of injuries suffered by him in a train accident. The death claim was settled by the insurer for basic sum assured only. Accident benefit was not settled. Therefore, the complaint.

The complainant submitted that denial of double accident benefit under the policy is illegal and irregular and she is entitled to receive the benefit.

The insurer submitted that the policy was in a lapsed condition as on the date of death of the life assured. As the policy conditions provide for Auto cover and life cover is available during that period , basic sum assured was paid to the nominee. Double Accident Benefit is not available during the Auto cover period. The repudiation is strictly in accordance with the policy conditions.

Decision:- The Quarterly premium due on 11.09.2010 was not paid by the life assured and the policy lapsed. Death occurred when the policy was in lapsed condition. By virtue of Clause 4 of the policy condition, the policy was in Auto cover period , as two years premiums were already paid. So, life cover was available as on the date of death. So, the basic sum assured was paid by the insurer. As per the restrictive provision incorporated in

Clause 4 of the policy conditions, Accident Benefit rider is not available during the Auto cover period. So, by virtue of this provision, Accident benefit is not available in the policy. So, the complainant is not entitled to Accident Death Benefit provided under the policy. In the result, the complaint is dismissed. No cost.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-017-009/2012-13

Brigitta Joseph

Vs

Future Generali India Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/45/2013-14 dated 16.07.2013

The late husband of the complainant had taken Future Freedom Plus – Gold policy from the Respondent-Insurer in 2009. He died on 23.06.2011. The claim submitted by the complainant was repudiated by the insurer on unjustifiable grounds. Therefore, the complaint.

The complainant submitted that her husband contracted Liver Cirrhosis after the policy was taken. The hospitalization in 2008 was not for Liver Cirrhosis. So, the deceased life assured had not suppressed any material fact in the proposal form with intention or knowledge. She is entitled to receive the death benefit under the policy.

The insurer submitted that the deceased died due to Liver Cirrhosis and investigations had revealed that he had been suffering from Liver Cirrhosis and other ailments even prior to the submission of the proposal. Form. These facts were not revealed in the proposal form inspite of specific questions regarding the same. Suppression of material facts was done with knowledge and intention. The policy is vitiated. So, they have no liability to pay the sum assured. The fund value offered to the complainant was not accepted by her.

Decision:- As per the medical evidence available , the deceased was diagnosed for Cirrhosis in Feb 2008 and he continued treatment till his death on 23.06.2011. He died of

Liver Cirrhosis. Records of hospitalization in Feb. 2008 and Jan 2009 are available. The proposal was submitted on 28.10.2009 and he totally concealed his health status from the insurer with knowledge. On account of suppression of material facts relating to health status of the deceased in the proposal form , the policy is vitiated and therefore, the insurer is exonerated from liability to pay the Sum Assured to the complainant. The complainant is entitled to receive the surrender value of Rs. 33873/- which has already been offered by the insurer. In the result, an award is passed upholding the decision of the insurer rejecting death benefit in the policy. The complainant, if so desires, can receive the surrender value available under the policy from the insurer. No cost.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-021/2012-13

P Uthaman

Vs

LIC of India

AWARD No. IO/KCH/LI/64/2013-14 dated 23.08.2013

The complainant's son had taken a policy from the respondent-Insurer on 15.11.2010. He died on 24.01.2011. The death claim was repudiated by the insurer on the ground of suppression of material facts in the proposal form. Therefore, the complaint.

The complainant submitted that her son had undergone treatment for pneumonia while he was 11 years old. Thereafter, he had never undergone any treatment. He had not suppressed any material facts relating to his health status in the proposal form with knowledge or intention. The repudiation of the claim is against the policy conditions and legal principles.

The insurer submitted that the policy was issued based on the proposal form submitted by the deceased life assured. The medical evidence would reveal that he had been suffering from heart disease at least while he was 11 years old. He had been suffering from Mitral Valve Prolapse and he died as a result of that ailment. He was undergoing continuous treatment for the last 19 years. He had suppressed this material fact regarding his health in the proposal form with knowledge and intention. He died just 2 months after

the issuance of the policy. The policy is vitiated and therefore, the repudiation of the claim is legal and proper.

Decision:- There is consistent evidence that the primary cause of death of the deceased was Cardio respiratory arrest. Various medical evidence such as certificate from the treating doctor, Hospital and certificate from the Head of the Cardiology Dept., MCH, Alappuzha are produced. Available medical evidence is to the effect that the life assured had been suffering from valvular heart disease from the age of 11 years. In other words, he had been suffering from that disease for the last 19 years prior to his death. The insurer is contending that in answer to the definite questions asked in the proposal form relating to the health status of the proposer, he had given false answers ie, he had suppressed material facts . It is the fundamental principle of insurance law that utmost good faith must be observed by the contracting parties. Any fact which would influence the mind of a prudent insurer in deciding whether to accept or not to accept a risk is a material fact. In the instant case, there is evidence that the life assured was diagnosed with Mitral Valve prolapse while he was 11 years old. When the suppression relates to a material fact and the suppression is with knowledge that would amount to fraud. Fraud would vitiate a contract of insurance. The insurer is exonerated from the liability to honour the claim. The outcome is that the repudiation of the claim is perfectly justifiable. The complainant is not entitled to any relief in the complaint. In the result, the complaint is dismissed. No cost.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-057/2012-13

Shanthamma

Vs

LIC of India

AWARD No. IO/KCH/LI/65/2013-14 dated 23.08.2013

The deceased brother of the complainant had taken Jeevan Anand policy from the Respondent-Insurer. He died and the claim seeking death benefit was repudiated by the insurer. Therefore, the complaint.

The complainant submitted that the deceased was not suffering from Liver disease prior to the submission of the proposal form. For taking leave on medical ground, a Certificate to that effect was obtained from the doctor and presented to the employer. Liver disease was not the cause of death. If at all there is suppression , it does not relate to a material fact and therefore, the repudiation of the claim is illegal.

The insurer submitted that the Life Assured died as a result of Cardio Respiratory Arrest and Gastro Intestinal Bleed. There is medical evidence that he had been suffering from Liver Disease at least from July 2006 onwards and he had not revealed the same in the proposal form. The suppression relates to a material fact and the suppression was with knowledge and intention. Section 45 of the Insurance Act is attracted. The policy is vitiated and therefore, repudiation of the claim is sustainable.

Decision:- The death of the Life Assured was more than two years after the inception of the policy. In such a situation, Section 45 of the Insurance Act is attracted and the burden is on the Respondent-Insurer to adduce sufficient evidence to show that there was suppression and the suppression related to material facts and the material facts were suppressed intentionally with knowledge. This aspect was considered by the Hon'ble High Court of Kerala in Suresh Vs. Insurance Ombudsman in 2011 KLT 809. the contention of the Respondent-Insurer is that in answer to the definite questions asked in the proposal form relating to the health status of the proposer, he had given false answers, i.e., he had suppressed material facts in the proposal form. As per IRDA Regulations, 2002, the term 'material' shall mean and include all important, essential and relevant information in the context of guiding the insurer to decide whether to undertake the risk or not.

Regarding pre-proposal illness, there is the certificate produced by the deceased Life Assured before his employer wherein it is stated that he had been suffering from Hepatoma. Hepatoma usually occurs in association with Hepatitis or cirrhosis of liver. Of course, the fact that he had suffered Hepatoma prior to submission of the proposal form had not been disclosed by him in the proposal form. So, there is non-disclosure of a fact in the proposal form. In the instant case, there is no evidence that during his last hospitalisation at KIMS Hospital and Research Centre, Bangalore he had suffered any ailment connected with Liver. As per the Discharge Summary, Life Assured died as a result of Cardio Respiratory Arrest and Gastro Intestinal Bleed. Haematemesis suffered by the deceased Life Assured has its origin in GI bleed. Had there been any connection with Liver disease, the doctors who attended on him would have noted the same in the Certificates (Claim Forms 'B' and 'B1') issued by them. False statements, if any, made in the proposal form do not indicate that those statements were fraudulently made. There must be sufficient evidence that the facts were suppressed fraudulently with knowledge and intention. As stated earlier, no Liver disease was diagnosed during his last hospitalisation which culminated in his death. So, the cause of death has no nexus with the pre-proposal illness which was not disclosed by him in the proposal form. In the circumstance, it cannot be found that the policy is vitiated. Therefore, the repudiation of the claim is not sustainable. In the result, an award is passed directing the Respondent-Insurer to honour the claim submitted by the complainant and to provide death benefits provided under the policy with cost of Rs.3,000/- within the prescribed period failing

which, the amount payable to the complainant shall carry interest at 9% per annum from the date of complaint (23.04.2012) till payment is effected.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI
Complaint No. IO/KCH/LI/21-001-092/2012-13
Rani R Nair

Vs

LIC of India
AWARD No. IO/KCH/LI/74/2013-14 dated 11.09.2013

The deceased husband of the complainant had taken Jeevan Tarang policy from the Respondent-Insurer. He died in Dec. 2010 at Muscat. The death claim was repudiated by the insurer on the ground of suppression of material facts. Therefore, the complaint.

The complainant submitted that her deceased husband had taken policy in 2009. Before that he had never undergone treatment for Hepatitis C or any liver disease. Nothing was intentionally suppressed by him in the proposal form. She is rightly entitled to the death benefits under the policy.

The insurer submitted that the proposal was submitted on 01.09.2009 and there is evidence that atleast on 21.08.2009, the deceased Life Assured was diagnosed with Hepatitis-C related liver disease. He had not disclosed the same in the proposal form inspite of the definite question to that effect. There is evidence that the death of the Life Assured was also due to liver disease. So, the repudiation of the claim on the ground of suppression of material fact is legal and proper.

Decision:- As per medical records, the primary cause of death is 'Fulminant hepatic failure' and secondary cause of death is noted as 'Hepatic C infection'. It is further noted that the deceased was diagnosed with Diabetes Mellitus in August 2009 and the same was under control with oral medicines and diet control. The Insurer had received a Certificate from Dr.G.N.Ramesh, Consultant Gastro Enterologist, PVS Hospital wherein it is stated that the deceased was seen by him on 21.08.2009 and was diagnosed as having Hepatitis C related chronic liver disease. Ultra Sound showed features of chronic liver disease, portal hypertension and regenerating nodules. Dr. Sunil Thomas, Consultant Physician, Thiruvalla had issued a certificate wherein he had confirmed the diagnosis done by Dr.

G.N.Ramesh. So, there is reliable evidence that the deceased was diagnosed with Hepatitis C related chronic liver disease atleast on 21.08.2009. So, as on the date of proposal form(01.09.2009), the husband of the complainant was already diagnosed with DM and Hepatitis C related chronic Liver disease. Admittedly, these facts were not disclosed by him in the proposal form. So, the deceased is guilty of non-disclosure of his actual health status in the proposal form. As the ailment suppressed in the proposal form had led to the death of the Life Assured, the suppressed fact assumes much materiality. When the suppression of a material fact is with knowledge and intention, it would amount to fraud and fraud would vitiate the contract of insurance. Therefore, the complainant is not entitled to the death benefit provided under the policy. As the policy had not attained 'Paid-up' status, the complainant is not entitled to paid-up value. But, a huge amount was invested in the policy by the deceased. On a consideration of the entire facts and circumstances, I am satisfied that this is a fit case where Rule 18 of RPG Rules can be invoked to direct the Insurer to pay Ex-gratia In the result, the complaint is disposed of with a direction to the Insurer to pay to the complainant an amount of Rs.50,000/- on Ex-gratia basis within the prescribed period, failing which, the amount shall carry interest at 9% per annum from the date of award till payment is effected. No cost.

KOLKATA

OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	**:**	**837/21/001/L/11/2011-12.**
Nature of Complaint	**:**	**Repudiation of death claim**
Category under RPG No.24 of Rules 1998.	**:**	**12 (1) (b) [wrongly admitted under Code the RPG Rules, 1998]**
Policy No.	**:**	**426115485**

Name & Address of complainant	**:**	**Smt. R. Dhanalaxmi, W/o Late R. Papa Rao, C/o Shri Kanga Durga Musical Center, Tukka Ram Market, Junglighat, P.O. Port Blair – 744 105, Andaman & Nicobar Islands.**
Name & Address of Insurer.	**:**	**Life Insurance Corporation of India, K.S.D.O., Jeevan Prabha, DD – V, Sector – I, Salt Lake City, Kolkata – 700 064.**
Date of Hearing	**:**	**29th May, 2013**
Date of Order	**:**	**30th May, 2013**

AWARD

This petition is filed by the complainant against the decision of Life Insurance Corporation of India to repudiate the death claim under the policy no. 426115485 and the same has been admitted under Rules 12(1)(b) of the RPG Rules 1998.

4. Decision :

We have considered the written submissions of both the parties and verified the documents submitted to this forum. The complainant has approached this forum against repudiation of death claim of her husband on the ground of suppression of material facts relating to health. From the facts presented to this forum, we find that the DLA had taken a policy bearing no.426115485 from LIC of India, Andaman branch for SA of Rs.2.00 lakh with DOC on 28.10.2008. The DLA expired on 08.06.2009 due to cardiogenic shock in a case of acute myocardial infarction. Since the duration of the policy was only 7 months and 10 days from the date of commencement, the insurer made necessary investigation to verify the genuineness of the claim. Their investigation has revealed that the DLA had suppressed material facts relating to health and medical leave in the proposal form. The cause of death was cardiogenic shock in a case of acute myocardial infarction. It is seen from the claim form 'B' and 'B-1' executed by G.B. Panth Hospital, Port Blair that the DLA was admitted in the hospital on 08.06.2009 with complaint of abdominal pain and loose

motion. He expired on the same date, but no other previous ailment was recorded in the claim form. The insurance company has obtained the leave details of the DLA from his employer which shows that he availed medical leave for 55 days from 05.01.2005 to 29.01.2005, 25.03.2007 to 13.04.2007 and 25.01.2008 to 03.02.2008 prior to the date of commencement of the policy. From medical certificate issued by Primary Health Centre, Mandasa, it is seen that that the LA was suffering from ICTERUS (Jaundice) since 2005. He was under treatment during the period 5.01.2005 to 1.02.2005 and was unable to attend his duty. Similar certificate were also issued by Primary Health Centre, Haripuram recommending medical leave from 25.03.2007 to 15.05 2007 for treatment of jaundice. These certificates clearly indicate that the LA was suffering from Jaundice before taking the policy but it was suppressed in the proposal form in reply to specific question no. 9(i) (medical consultation), 9(iv) (liver disease) and 9(ix) (general state of health) in the proposal form. Although the complainant has argued that her husband had submitted false medical certificates to avail of leave for construction of the house, but neither the employer nor the concerned doctors have issued any certificate confirming the false nature of medical certificates.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the suppression of material facts has been established by the insurance company with strong documentary evidence. The principle of utmost good faith is applicable to the insurance contract and any misrepresentation or suppression of material facts is sufficient to void the contract.

Hence, decision taken by the insurer is in order and the same is upheld. The complaint is dismissed. But after considering the financial hardship of the widow we allow refund of the premium paid under the policy purely on ex-gratia basis. The company is directed to make the payment within 15 days of receiving this order along with consent letter of the complainant.

(MANIKA DATTA)

INSURANCE OMBUDSMAN

.....

OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER

Complaint No.	:	**900/21/002/L/09/2012-13**
Nature of Complaint	:	**Repudiation of death claim**
Category under RPG Rules, 1998	:	**12 (1) (b)**
Policy No.	:	**47002075906**
Name & Address of the Complainant	:	**Shri Surendra Singh,** **S/o Gokhul Singh,** **Vill. Tandwa, P.O. Baliyari,** **P.S. Tarhasi or Manatu,** **District:Palamau (Jharkhand),** **Pin: 822 122.**
Name & Address of the Insurer	:	**SBI Life Insurance Co. Ltd.,** **Central Processing Centre,** **Kapas Bhavan, Plot No.3A, Sector – 10,** **CBD Belapur, Navi Mumbai – 400 614.**
Date of hearing	:	**16th April, 2013**
Date of Order	:	**30th May, 2013**

AWARD

This petition is filed by the complainant against the decision of SBI Life Insurance Co. Ltd., to repudiate the death claim under the policy no. 47002075906 and the same has been admitted under Rules 12(1)(b) of the RPG Rules 1998.

Decision :

We have heard both the parties, considered their written submissions and verified the documents submitted to this forum. The complainant has approached this forum against the repudiation of death claim on the ground of suppression of material facts relating to health. From the facts presented to this forum, we find that the LA had taken a policy on 05.10.2011 and he passed away within one month on 07.11.2011. As per the prescription of Dr. N.K. Singh dated 10.09.2011, the LA was suffering from hypertension, chest pain and pain in joints. As per the certificate of the same doctor (Dr. N. K. Singh) dated 30.05.2012, the LA was under his treatment since 10.09.2011 for hypertension. However, we find that the Medical Attendant's Certificate dated 31.03.2012 issued by the same doctor states that

1. **he was the family doctor of the LA from 2008 for 4 years;**
2. **he has certified as per Part IV of Medical Attendant's Certificate that the LA was not suffering from Hypertension, diabetes etc;**

From the above it is seen that the concerned doctor has made contradictory statement regarding the illness of LA. So, these documents cannot be accepted as sufficient evidence for existence of HTN. Under the circumstances, suppression of material fact is not conclusively proved. The insurance company has submitted a revised SCN confirming that even if the LA had disclosed HTN in the proposal form, the chances of accepting such proposal are very slim; which indicates that the case might not have been out rightly rejected by the insurance company.

After careful evaluation of the facts and circumstances of the case, we are of the opinion that suppression of material facts has not been conclusively established by the insurance company. Considering that the primary cause of death was snake bite and not HTN and suppression of material not proved, the repudiation of the claim by insurance

company is not justified and their decision is set aside. The insurance company is directed to admit the claim and make the payment within 15 days of receiving this award along with consent letter of the complainant.

The complaint is allowed.

(MANIKA DATTA)

INSURANCE OMBUDSMAN

OFFICE OF THE INSURANCE OMBUDSMAN
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	:	**1601/21/001/L/02/2012-13**
Nature of Complaint	:	**Repudiation of death claim**
Category under RPG Rules, 1998	:	**12 (1) (b)**
Policy No.	:	**454728762**
Name & Address of the Complainant	:	**Smt. Nanibala Roy,** **W/o Late Santosh Roy,** **Vill. Jagna Narayaner Kuthi, P.O. Pundibari,** **District: Coochbehar,** **Pin: 736 165.**
Name & Address of the Insurer	:	**Life Insurance Corporation of India,** **Jalpaiguri D.O., Jeevan Prakash,** **P.O. Jalpaiguri – 735 101,** **District: Jalpaiguri.**
Date of hearing	:	**21st May, 2013.**
Date of Order	:	**27th May, 2013**

AWARD

This petition is filed by the complainant against the decision of Life Insurance Corporation of India, to repudiate the death claim under the policy no. 454728762 and the same has been admitted under Rules 12(1)(b) of the RPG Rules 1998.

Decision

We have heard both the parties, considered their written submissions and verified the documents submitted to this forum. The complainant has approached this forum against the repudiation of death claim of her husband. From the facts presented to this forum, we find that the DLA had taken a policy on 11.03.2008 and he expired on 26.09.2011 after paying two annual premiums. The policy being early in nature, the insurance company initiated necessary investigation to verify the genuineness of the claim. Their investigation has revealed that the LA was under treatment for various ailment and was advised bed rest by the doctors. As per leave particulars supplied by the Divisional manager, NBSTC, Coochbehar Division, the LA had availed 131 days leave on medical ground on six different occasions for the period from 08.02.2006 to 13.03.2006, 12.07.2006 to 27.07.2006 (Jaundice), 04.10.2006 to 14.11.2006 (uncontrolled diabetes), 15.01.2007 to 05.01.2007 (Jaundice), 17.04.2007 to 13.05.2007 (Gastric Ulcer) and 16.07.2007 to 27.07.2007 (fever). On each occasion, the LA submitted certificates of fitness issued by concerned doctors to resume duties. However, the leave details were not disclosed in the proposal form, in reply to specific questions.

Before his death, the LA was admitted to Shila Nursing Home, Coochbehar on 23rd September, 2010. As per the discharge certificate dated 26.09.2010 issued by the said nursing home, the diagnosis was CRF, HTN, Anaemia, DM and LVF. The pre-existence of DM stands proved by the medical cum fitness certificate issued by Dr. P. Mukherjee dated 14th November, 2006 stating that the LA had been suffering from DM and was advised rest from 4th October, 2006 to 14th November, 2006. The insurance company has also submitted the fitness certificate issued by Dr. Jayanta Kr. Chowdhury dated 30th July, 2007 confirming that the LA was under his treatment for gastric ulcer from 17th April, 2007 to 13th May, 2007 and the certificate issued by Dr. M.R. Bhowmick dated 6th March, 2007

states that the LA was suffering from jaundice from 15th February, 2007 to 5th March, 2007. As per the Death Certificate issued by Dr. I.K. Nath, M.O., M.J.N. Hospital, Coochbehar dated 26th September, 2010, the cause of death was CRF in a case of Chronic Renal Failure with left ventricular failure (LVF) with diabetes. On the basis of the above documents, the insurance company has repudiated the claim since the LA did not disclose his above medical problems in the proposal form.

After careful evaluation of all the facts and circumstances, we are of the opinion that the suppression of material facts has been established by the insurance company with strong documentary evidence. The principle of utmost good faith is applicable to the insurance contract and any misrepresentation or suppression of material facts is sufficient to void the contract. Under the circumstances, the decision of the insurance to repudiate the claim is justified and the same is upheld. However, considering the financial hardship of the complainant, we allow the refund of premium paid by the LA under the policy purely as an ex-gratia relief. The insurer is directed to make the payment within 15 days of receiving this order along with consent letter.

(MANIKA DATTA)
INSURANCE OMBUDSMAN

OFFICE OF THE INSURANCE OMBUDSMAN
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	**:**	**1703/21/009/L/02/2012-13**
Nature of Complaint	**:**	**Repudiation of death claim**
Category under RPG	**:**	**12 (1) (b) Wrongly admitted in Cl.12(1)(c)**

Rules, 1998

Policy No.	**:**	**233298904**
Name & Address of the Complainant	**:**	**Mrs. Manika Lama, AT – Kolbong, P.O. Tinchulay Lingding, P.S. Rangli Rangliot, District: Darjeeling, Pin: 734 222.**
Name & Address of the Insurer	**:**	**Bajaj Allianz Life Insurance Co. Ltd., Bajaj Finserv, Survey No.S/208/B-1, Behind Weikfield IT Building, Viman Nagar, Nagar Road, Pune – 411 014.**
Date of hearing	**:**	**21st May, 2013.**
Date of Order	**:**	**27th May, 2013**

AWARD

This petition is filed by the complainant against the decision of Bajaj Allianz Life Insurance Co. Ltd, to repudiate the death claim under the policy no. 233298904 and the same has been admitted under Rules 12(1)(b) of the RPG Rules 1998.

Decision

We have heard both the parties, considered their written submissions and verified the documents submitted to this forum. The complainant has approached this forum against repudiation of death claim of her husband on the ground of suppression of material facts. From the facts presented to this forum, we find that the LA had taken a policy on 21.09.2011 and he expired on 19.02.2012. The claim being early in nature, the insurance company made necessary investigation to verify the genuineness of the claim. Their investigations have revealed that the deceased LA was suffering from cancer of minor salivary gland which was not disclosed in the proposal form. The complainant has contended that her husband was suffering from cancer 9-10 years back in 2003-04 and after surgery he was totally cured. There was no recurrence of the disease during the 7 years and therefore, he did not conceal any material fact. She referred to the doctor's

prescription dated February, 2004 and biopsy report of North Bengal Clinic which show that the disease existed in 2004. Even the insurance company does not have any document to prove that he had undergone any treatment for cancer or HTN during the last five years. The policy was taken in 2011 i.e. after seven years of the surgery of the Salivary Gland. The immediate cause of death was cardio vascular accident and the secondary cause was hypertension. The insurance company could not produce any evidence to show that hypertension was pre-existing.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that pre-existence of hypertension is not proved in this case. Although cancer of salivary gland was pre-existing but there is no evidence that the LA had undergone cancer treatment during the last five years prior to taking the policy. Under the circumstances the repudiation of the claim on the ground of suppression of material facts is not justified. The decision of the insurance company is set aside and they are directed to admit the claim and make the payment within 15 days of receiving this order along with consent letter. The complaint is allowed.

(MANIKA DATTA)
INSURANCE OMBUDSMAN

LUCKNOW

Lucknow Ombudsman Centre

Complaint No.: L-1538/21/001/2012-2013

Award No.-IOB/Lko/237/001/13-14

Pushplata Vs. LIC of India,

Award dated: 13.08.2013

REPUDIATION

Facts : Sri Sudhir Kumar had taken a policy for Sum assured of Rs 1,00,000 on 28.01.2008. Unfortunately the L.A died on 14.12.2010 due to sudden death . Claim was preferred by the complainant nominee, wife of the deceased life assured. The claim was repudiated by the respondent insurance company on the ground that DLA had given false statement about his health in personal statement at the time of taking the policy. D. L.A was suffering from RDS, MS, Post BMV since last seven years. Respondent insurance company argued that had the fact been disclosed at the time of proposing insurance, the policy may not have been offered.

<u>Findings:-</u> It was found that the late life assured had suppressed the material statement about his health. D.L.A had under gone operation of heart by Valve ballooning method. The death summary and claim form B & B1 issued by SGPGI, Lucknow reveals that DLA was suffering from RDS, MS, Post BMV(2004) since 2004. It proves that the life assured had concealed material facts regarding his health, which if disclosed would have affected the underwriting decision of the respondent insurance company

Decision: It was observed by the forum , that the life assured had given deliberate misstatement about his health at the time of taking insurance hence violated the principle of utmost good faith. Consequently this forum did not interfere with the decision of respondent insurance company and repudiation was upheld.

****

MUMBAI

Complaint No. LI – 1331 (2012-2013)
Complainant: Mr. Murali Keezhut
V/s
Respondent: IDBI Federal Life Insurance Co. ltd.

The complainant stated that his wife late Mrs.Vasantha Murali had been issued IDBI Federal life Insurance Company's Termsurance Group Life Plan under Policy Nos.15390600003964 /3873/ 3899/ 3915/ 3923/ 3980/ 3949/ 3998/ 3972 /4012, for sum Assured of Rs.8,28,350.00, by paying annual premium of Rs.51,395/-, with date of commencement 18/02/2011. Mr.Murali submitted that being an account holder of Federal Bank, Mulund branch, the Bank had sold the said policy to his wife, Mrs.Vasantha Murali on 18/02/2011. Mr.Murali further stated that his wife was first diagnosed of kidney ailment in April 2011, at Fortis Hospital, Mulund, Mumbai. In April 2012, Mr.Murali's wife underwent a biopsy at Ernakulum Medical Trust, Cochin where she was diagnosed of kidney disorder. However she expired on 09/06/2012 due to Renal failure, at Ernakulum Medical Trust, Cochin. When he preferred the claim, the insurance company denied the claim vide their letter dated 18/11/2012, on the grounds of non-disclosure of material information. Aggrieved, he approached this Forum for redressal of his grievance.

IDBI Federal Life Insurance Company submitted that they investigated the case and it was revealed that the deceased life assured was suffering from Chronic Kidney Disease. Prior to her death, she was admitted to Apex Kidney Centre, Mulund between 2006 and 2010, where she was undergoing hemodialysis. At the time of applying for insurance, in the proposal forms dated 18/02/2011, the life assured had answered the questions under *Part IV: Short Personal Health Statement of the member to be insured in the negative*. The fact that the life assured was suffering from kidney disease was withheld. Hence the claim was denied on the grounds of suppression of material facts. The company provided evidence to the Forum in the form of a certificate issued by Consultant Nephrologist, who certified that late L.A. was a known case of chronic kidney disease for the last two years prior to initiating hemodialysis. The papers enclosed with the said certificate further states that she had undergone hemodialysis from 01/01/2008 to 01/06/2010. It was informed that the said policy was a group policy and no medical examination was conducted by the company at the point of sale. . Ombudsman asked the company to produce the underwriting rules regarding acceptance of risk under such lives.

The complainant maintained that there has been no non disclosure of material information, as his wife had no such ailment before the inception of the said policy and

her illness came to light only in April 2011. He appealed to the Forum for directing the respondent to settle the cla

Ombudsman directed the complainant to produce documentary evidence to prove that the certificate issued by the treating doctor regarding past history was incorrect. The complainant asked for 7 days time to comply with the direction, which was granted. On the second hearing
the complainant produced two certificates issued and signed by the treating doctor. One of the certificate mentions that the earlier certificate issued by the hospital, Apex Kidney Care, in support of the rejection of the claim, was erroneously issued, in which details of another patient, named Ms.Vasanti Murlidharan, was mistook for that of Ms.Vasantha Murali. In the second certificate issued by Dr.Mukesh M Shete he has said that he first consulted the patient, Ms.Vasantha Murali in the month of Sept. 2011 and she was on conservative line of treatment but was never dialysed. The said statements have been submitted to this Forum.

IDBI Federal Life Insurnace Co. produced the company's underwriting practice regarding Group Term assurance policy, which was sold to the deceased life assured. According to the company's underwriting rules, IDBI Federal Termsurance Group Plan is a Group Term policy issued to Fedsecure Recurring Deposit Account holders of Federal bank, designed exclusively to provide life cover to them. The said product is designed as non-medical group term plan with maximum cover up to 10 lakh sum insured per member. The Personal Health Statement, which forms part of the application for the above insurance product, covers all major medical/health related questions like disease of heart, circulatory system, chest pain, high blood pressure, stroke, lung disorder, cancer, tumour of any kind, diabetes, blood disorder, hepatitis or liver disorder, kidney disorder, mental or nervous disorder of HIV infection (AIDS). Any affirmative answer/response to any of the said question in Part – IV of the application form leads to calling of the evidence of health. Based on such evidence of health, the risk is accepted or declined.

The company was given copies of the evidence produced by the complainant, i.e. the two certificates issued by treating doctor. The company was asked to produce evidence in the form of hospital extract from the records, to prove that the deceased life assured was undergoing hemodialysis, as the Forum found it difficult to accept that two persons with different names were having similar addresses and was taking treatment at the same time. The time sought by the company is 8 days which was granted by the Forum.

The company expressed their inability to get any sustainable evidence to prove that the documents submitted by the complainantis not authentic or it do not disclose the facts. The company has also informed that they have made extensive efforts to collect evidence but they have not been able to get any records from the hospital. The company has therefore decided to consider the complaints.

Since the company agreed to reconsider the claim on the life the deceased life assured, the complaint is treated as resolved and closed. There is no other relief to the

complainant. It is however not understood why the company did not carry out further investigation as pointed out by the Ombudsman

****

Complaint No. LI – 1586 (2011-2012)
Complainant: Mrs.Kusumadevi Banjara
V/s
Respondent: Future Generali Life Insurance Company Ltd.

The complainant stated that her brother-in-law, Mr.Niranjan Lal Banjara bought Future Generali Life Insurance Company's ULIP Plan under Policy No.00090700, with total Annual premium of Rs.11,000/- for sum assured Rs.2,20,000/- and date of commencement 20/03/2009. Mr.Niranjan lal Banjara died on 23/07/2010. When Mrs.Kusumadevi Banjara preferred the claim, Future Generali repudiated the claim vide letter dt.21/03/2011, on the grounds that the ration card copy submitted was fabricated. Since the information provided in the proposal form was incorrect, there was no valid contract and hence no liability of claim.

Aggrieved by this decision, Mrs.Kusumadevi Banjara approached this Forum for redressal of her grievance.

Future Generali Life Insurance Company was represented by Mr.Amol Apte, Dy.General Manager, Legal. He stated that Future Generali investigated the case and found that the ration card copy submitted was fabricated. As per actual records, the name of the life assured Mr.Niranjan Lal Banjara was never part of ration card. His name appears to be incorporated. Hence the company repudiated the claim on misrepresentation of ration card.

Ombudsman asked the company the basis of acceptance of the proposal to which Future Generali replied that the proposal was sourced through their corporate agent, RMPS. The proposal was accepted on the basis of the PAN card and the ration card copy. The name of the life assured was mentioned against No.6 in the ration card copy submitted.

Ombudsman observed that the complainant, Mrs.Kusumadevi Banjara is the sister-in-law of the deceased life assured who is mentioned as nominee under the policy. Future Generali stated that there was no bar under Section 39 of Insurance Act and the life assured has the freedom to appoint any person as nominee.

Ombudsman asked Future Generali whether they verified the PAN card of the life assured to which they replied in the negative.

Future Generali stated that they authorized their investigating agency to collect the details of the Ration Card under RTI. The details given by Ration Card authorities state that the ration card bearing No.0278557 issued to shop No.16 K 87 is issued for 5 persons in the name of Haribhau Pyarelal Nabhara. Ombudsman asked the company whether a copy of the ration card sent along with the RTI query to the Ration card authorities to verify the details, to which the insurance company replied in the negative. Future Generali stated that the ration card authorities were only asked to give details of the ration card bearing No.0278557.

Future Generali stated that the life assured's mother, Mrs.Ramkali Banjare has provided an affidavit wherein she states that her son, Mr.Niranjan lal Banjare aged 62 years was a beggar, never visited Mumbai in the last 5 years was in the habit of consuming alcohol, whereas the proposal form mentions his address as Jai Shivaji Nagar, Wadala, Mumbai, he is counter sales person, having annual income of Rs.70,000/-. Ombudsman pointed out that the name mentioned in the affidavit is Niranjan Lal Banjare and not Banjara. To this, the insurance company replied that the post mortem report mentions the name as Niranjan Lal Banjara, the place of death as Ramnagar, Gutila, Agra, U.P. The claimant, Mrs.Kusumadevi Banjara also mentions the same address in the claim form.

The Forum observed that, there are discrepancies regarding :

1. **the veracity of the Ration Card copy provided by claimant and whether the ration card was forged.**
2. **the occupation & Annual Income of life assured whether he was a salesperson or was he a beggar as stated in the affidavit.**
3. **the identity of Mr.Niranjan Lal Banjare – whether he was the same Mr.Niranjal Lal Banjara, the life assured.**

During the deposition Ombudsman observed that there was no clinching evidence to prove that the person who died at Agra, Mr.Niranjan lal Banjare was the same person who was living in Mumbai i.e the life assured, Mr.Niranjan Lal Banjara. There were a lot of loopholes in the documents submitted by both the parties to the dispute. In spite of sending hearing notices twice, the complainant did not present herself for hearing. No telephonic contact could be established with the complainant, as there is no telephone number mentioned in her P form or her complaint letter.
The Forum also observed that while underwriting the proposal, M/s. Future Generali Life Insurance Company could have been more careful. They have accepted the proposal relying upon their corporate agent RMPS, without satisfying themselves about the veracity of the supporting documents submitted by the life assured. Future Generali has discontinued the corporate agency of RMPS. It is noted that although the life assured is married, he has named his sister-in-law as nominee. She is not a class I heir. Future Generali has not examined the Moral Hazard aspect.

Both the parties to the dispute have failed to provide evidence to accept that the life assured is the same Mr.Niranjanlal Banjare who died in Agra, UP. Further, there is also discrepancy in the age of life assured and the person named Mr.Niranjan Lal Banjare in the affidavit. The details of ration card copy given by Ration Card Authorities under

ration card bearing No.0278557 are different. The complainant Mrs.Kusumadevi Banjara states that the ration card is original. To arrive at a fair decision, it is necessary to call for personal evidence and deposition by the authorities or people mentioned in the various sets of documents. The complainant is also not traceable. The Forum does not have the infrastructure to investigate or analyse the case any further. Hence the complaint stands dismissed at the Forum.

****

Complaint No.LI- 1560 (2011-2012)
Complainant: Shri Hitesh Doshi
v/s.
Respondent: LIC of India

Award dated 28.08.2013

The complainant Mr. Hitesh Doshi and his wife Mrs. Monica Doshi had taken Jeevan Saathi plan, policy no. 905015019 on 28.07.2005 for a sum assured of Rs. 2 lakhs. On 15.10.2006, Mrs. Monica was cleaning the house and spraying insecticide and after sometime started feeling uncomfortable due to inhalation of insecticide. Immediately Mr. Hitesh Doshi called the family doctor who gave her injection and was then taken to Gokul hospital. However she expired after sometime of her admission in the Hospital. When he lodged the claim with LIC, they rejected the claim on technical ground .

Aggrieved by their decision Shri Hitesh Doshi approached the Office of the Insurance Ombudsman.After perusal of the records, parties to dispute were called for hearing The complainant had deposed that while his wife, Mrs. Monica was cleaning and spraying insecticide, he was not at home and went for some function within his building premises. His wife along with his daughter aged 1 year and niece aged 12-13 years were at home. At around 2 p.m his niece called him informing that his wife was feeling uncomfortable. He stated that she had inhaled insecticide because of which she was feeling suffocated. Immediately he called the family doctor who gave her injection and was then taken to Gokul hospital. However since the poison had spread in the whole body, she breathe her last after sometime of her admission in the Hospital. Ombudsman asked her why his daughter and niece were not affected by insecticide, to this he stated that his wife was spraying the insecticide in the kitchen and they were in the hall room. He stated that he remarried 3 years back.

The company representative submitted that on the basis of proposal form filled by the Mr. Hitesh Doshi and his wife Mrs. Monica Doshi, policy no. 905015019 was issued to them on 28.07.2005 with Clause 4B .On receipt of death claim intimation of Mrs. Monica, investigations were conducted and it revealed that she died due to inhalation of insecticide while spraying at home. Since clause 4B was applicable, claim was rejected.

Ombudsman asked her what does Clause 4B states, to this she stated that in the event of death as a result of intentional self injury, suicide or attempted insanity, accident other than an accident in the public place or murder at any time on or after the date on which the risk under the policy has commenced but before expiry of three years from the date of this policy, LIC would refund only premiums (exclusive of extra premiums, if any) paid under the policy without interest. She also informed the forum that Clause 4B was applied to policies issued till 30.10.2006 wherein life insured (female) is between age group of 18-30 years. She stated that claim was repudiated on the grounds of Clause 4B as the Final Police Verdict states that death is due to accident.

The entire documents submitted to the forum are taken on record. It is observed that Mr. Hitesh Doshi aged 32 years had taken Jeevan Saathi Plan on 28.07.2005 on his life and on the life of his wife Mr. Monica Doshi who was 24 years of age at the time of proposal. Mr. Hitesh Doshi is a Businessman by profession with annual income of Rs. 1 Lakh whereas Mrs. Monica is tutor with annual income of Rs. 48000/-. The Insurer has also informed the forum that proposal was accepted with Clause 4 B. Mrs. Monica died within 1 year, 2 months and 17 days due to inhalation of insecticide while cleaning the house. LIC repudiated the claim on the ground of applicability of clause 4B.

Let us understand Clause 4 B and whether the complaint of Mr. Hitesh is sustainable in this forum:-

Clause 4 B states that " Notwithstanding anything within mentioned to the contrary, it is hereby declared and agreed that in the event of death of the life assured occurring as a result of intentional self injury, suicide or attempted insanity, accident other than an accident in a public place or murder at any time on or after the date on which risk under the policy has commenced but before the expiry of three years from the date of this policy , the corporation's liability shall be limited to the sum equal to the total amount of premiums (exclusive of extra premiums, if any) paid under this policy without interest."

Thus it is established that Clause 4B is applicable in the following circumstances:-

1) **If death of life assured is due to intentional self- injury, suicide or attempted insanity and accident excluding accident in public place or murder then LIC can reject the claim for full sum assured on the grounds of Clause 4 B. In the instant case it is seen that deceased life assured expired due to an accident which took place within the four walls of her house. It is also confirmed from the Final Police Verdict that death of Mrs Monica has taken place as a result of accident.**
2) **Clause 4 B is applicable when death of life assured occurs within 3 years from date of commencement of risk. In this case, the death of Mrs. Monica has taken place within 1 year and 2 months from the date of commencement of the risk. Hence the rejection of claim by LIC cannot be said to be unjust.**
3) **As informed by company representative this clause is applicable to female life assured who is within the age group of 18-30 years. This implies that if life assured who is within this age group dies due to intentional self- injury, suicide or attempted insanity and accident other than accident in public place or death is due**

to murder, then LIC has full right to deny the claim under the policy and their liability would be limited to refund of premiums. Life assured, Mrs. Monica expired due to an accident that took place at her home and her age at the time of death was 25years i.e. well within the period when Clause 4B was applicable to her policy.

Thus the action of LIC to reject the claim of Mr. Hitesh Doshi is fully justified.

****

Complaint No. LI- 1721 (2012-2013)
Award No. IO/MUM/A/ LI - /2013-2014
Complainant : Shri Tanaji Jadhav
V/s
Respondent: Tata AIA Life Insurance Company Ltd.

Award dated 05.09.2013

Smt. Vimal Jadhav had taken 9 policies, policy no. being U159980259, C190118831, C190118844, C226521486, C226521473, C226521431, C226521428, C226521499 and C226521444 from Tata AIA Life Insurance Company Ltd in 2011. Smt. Vimal Jadhav expired on 09.03.2012. When her husband Shri Tanaji Jadhav lodged the claim with the insurer, they repudiated the claim on the grounds that she was over insured. He informed the insurer that all the nine policies were not given on the same date and hence company had all the opportunity to verify whether she was over insured which they did not do. Hence it is wrong on the part of the insurer to repudiate the claim. However the company stood by their decision of repudiation of claim.

Aggrieved by their decision, Shri Tanaji Jadhav approached the Office of the Insurance Ombudsman seeking intervention in the matter for settlement of his claim.

After perusal of the records, parties to the dispute were called for a hearing .

The documents produced at this Forum have been perused. It is seen that Smt. Vimal Jadhav had applied for 13 policies and company had issued her only 9 policies viz U159980259, C190118831, C190118844, C226521486, C226521473, C226521431, C226521428, C226521499 and C226521444 and total sum assured under these 9 policies worked out to be Rs. 14, 96,000/- .It is seen that there is discrepancy of information given by the deceased life assured about her occupation and annual income in various proposal forms. The occupation of life assured is mentioned as self employed in proposal for insurance for policy no. U159980259 and her annual income is mentioned as Rs. 3 Lakhs whereas in all other proposals for insurance viz policy no. C190118831, C190118844, C226521486, C226521473, C226521431, C226521428, C226521499 and C226521444, her occupation is mentioned as farming and annual income is mentioned as Rs. 1, 50,000. As per the underwriting rules of the insurer, she was eligible for insurance upto 10 times of

her annual income. Tata AIA Life Insurance Company Ltd have also informed that deceased life assured had proposed for total 13 policies but since it would have led to over insurance they have denied 4 policies on her life. After the death of Mrs. Vimal Jadhav , when they investigated the claim they came to know that prior to proposing for policies with them, she had policies with other insurance companies also which she had not disclosed in the proposal form:-

1) **Prior to proposing for Policy no. U159980259 and C190118831(DOC is 13-4-2011 for both the policies) she had 3 policies from other insurance companies**

Policy no. 44023019705 from SBI Life for sum assured of Rs. 15 lakhs
Policy no. 18778491 and policy no. 18879319 from Reliance Life for sum assured of Rs. 2 lakhs each.

2) **Prior to Policy no. C190118844,(DOC is 25-04-2011) there were 2 policies purchased by her from other insurance companies viz**

Policy no. 15356506 from ICICI Prudential Life Insurance Company Ltd. for sum assured of Rs. 14 lakhs
Policy no 4844708 from Birla Sun Life Insurance Company Ltd for sum assured of Rs.4lakhs;
In addition to the policies mentioned earlier taken from SBI Life and Reliance Life

3) **Prior to Policy no.s C226521486, C226521473, C226521431, C226521428, C226521499 and C226521444 (all these policies are with DOC 27-06-2011) she had total 8 policies from other insurance companies viz**

Policy no. 209832922 from Bajaj Allianz Life Insurance Company Ltd for sum assured of Rs. 1 lakh and

Policy no. 500-7490526 and policy no. 500-7490542 from Bharti Axa Life Insurance Company for sum assured of Rs.5 lakhs each;

In addition to the policies mentioned earlier taken from SBI Life, Reliance Life, ICICI Prudential Life and Bajaj Allianz Life Insurance Company Ltd.

It is observed that life assured had not disclosed about these policies taken from other insurance companies in the proposal form submitted to Tata AIA Life Insurance Company Ltd. Also while proposing for third policy i.e. policy no. C190118844, details of policy no. U159980259 and C190118831 taken from the same company were also not mentioned whereas in other policies viz C226521486, C226521473, C226521431, C226521428, C226521499 and C226521444 only policy no. C190118831 has been disclosed.

From the above, it is clearly established that Mrs. Vimal Jadhav had not given correct information to the insurer about the policies held on her life.

Under the Insurance law, the proposer is required to disclose all the material facts including details of the previous policies held by him at the time of applying for a new

policy. This information is required by the Insurer for underwriting the risk and to decide about the medical requirements since various special reports required for underwriting the proposal depends on TOTAL SUM AT RISK under various policies held by the Life Assured.

Generally, mere non-disclosure of previous policies could not be a ground for repudiation, but this is valid only when the insurer is sure that the non disclosure of previous insurance policies would not have affected the acceptance decision in any way and there was no need to call for additional medical reports. Even on the issue of moral hazard, the insurer had to be sure that the insurance cover will be confined to the established norms of financial underwriting and will not lead to a situation of over insurance. In the instant case, had Smt. Vimal Jadhav disclosed about her pervious policies, insurer would have called for medical and special reports and their underwriting decision would have been different. Also the annual income disclosed in the proposal form is not sufficient to support the huge insurance portfolio on her life. Thus disclosure of previous policies would have made a clear impact on the Medical as well as financial underwriting of the proposals on the life of Smt. Vimal Jadhav.

The complainant, Shri. Tanaji Jadhav's contention that all the insurance policies from Tata AIA Life Insurance Company Ltd of the life of his wife, Mrs. Vimal Jadhav were taken from the same Branch of the insurance company and the agent was the husband of the Branch Manager and also that the Insurer had all access to her records and had the opportunity to verify the same, does not deserve acceptability because it is well settled in law that once a person puts her signature on the proposal form she is responsible for the correctness of the answers as per the Declaration given in the proposal form and it is her duty to truthfully disclose all information affecting acceptance of the proposal . In view of this the rejection of the claim by Tata AIG Life Insurance Company Ltd cannot be said to be unjust.

****

Complaint No.LI- 184 (2012-2013)
Complainant: Shri Dhiraj Singh
v/s.
Respondent: HDFC Standard Life Insurance Company Ltd.

<u>Award dated 19.6.2013</u>

Smt. Puspha Singh had taken policy no. 12676617 on 24.02.2009 for sum assured of Rs. 3.00 lakhs. After the death of Smt. Puspha Singh on 30.12.2011 , her husband Mr. Dhiraj Singh preferred the claim to HDFC Standard Life Insurance Company Ltd. The Insurer repudiated the claim vide their letter dated 12/03/2012 on account of the deceased having suppressed material information regarding her health at the time of effecting the assurance. The basis for such decision was that at the time of proposal for assurance dated 12.02.2009 under policy No.12676617 the life assured had not disclosed that she had

suffered from Breast Cancer for which she consulted doctors and had taken treatment in hospital.

A scrutiny of the application for insurance reveals that all the questions regarding health had been answered negatively, which led the insurance company to believe that the deceased life assured was in good health at the time of applying for the insurance. However the facts were to the contrary and the insurance company has certain documents which were produced to the forum and they indicate that the deceased life assured had undergone certain medical tests and hospitalization prior to the date of the application for insurance which she had not disclosed in the proposal form :-

►Case papers and hospital records of Hiranandani Hospital , Navi Mumbai shows that deceased life assured was known case of Breast Cancer and was operated for Ca Breast in 2003.

►Usual /Family Doctor's Certificate from Dr. Nirav Shah dated 23.02.2012 shows that deceased life assured had lump in breast since April 2003 and Mammography and Biopsy was done to conclude the diagnosis.

►Doctor's /Hospital Certificate dated 27.02.2012 from the treating doctor , Dr. Shishir Shetty shows that deceased life assured had Ca.Breast since 2003.He has also provided details with regard to prior consultation done with Dr. Sachin of Hinduja Hospital and stated that deceased life assured had breast cancer in May 2003 and Chemotherapy Radiation was given where lump was removed.

All the above data indicates that deceased life assured had suffered from Breast Cancer and had taken treatment for the same prior to the date of proposal. It is imperative for deceased life assured to have mentioned about her true health condition and hospitalization in the application for insurance. Though the complainant Mr. Dhiraj Singh during the course of hearing had deposed that all information about the health of Mrs. Puspha Singh was given to the agent and agent had not disclosed the same in the proposal form, the forum is of the opinion that the deceased life assured being educated should have checked whether the details filled by the agent in the proposal forms are true and correct. This is essential as once the life assured signs on the proposal form, it becomes binding on her and she becomes responsible for the contents filled in the form.

Under these circumstances, this Forum has no valid reason to intervene with the decision of HDFC to repudiate the claim of Shri Dhiraj Singh for payment of policy monies under the policy held by his deceased wife, Smt. Puspha Singh.

****

Complaint No. LI – 161 (12-13)

Complainant: Smt. Anita Dabholkar
V/s
Respondent : Life Insurance Corporation of India

Award dated 21.06.2013

Shri Arjun Dabholkar had taken a Jeevan Saral plan, policy no 8921817123 from Life Insurance Corporation of India for sum assured of Rs.1,50,000/-.The date of commencement of the policy is 28.03.2007 .Shri Arjun Dabholkar expired on 27.04.2009 due to Disseminated Tuberculosis with Diabetes Mellitus . When the claim was preferred by his wife Smt. Anita Dabholkar , Life Insurance Corporation of India repudiated the claim.

LIC of India, however, stated they had evidence and reasons to believe that before he proposed for the above policy he was suffering from Chronic Alcoholic pancreatitis with type II Diabetes Mellitus and was on treatment and was Chronic Alcoholic since 30 years. He did not, however, disclose these facts in his proposal form dated 30.03.2007.

Aggrieved by their decision Smt. Anita Dabholkar approached the Office of the Insurance Ombudsman seeking intervention of the Ombudsman in the matter for settlement of her claim.

The entire records pertaining to the case have been scrutinized. Shri Arjun Dabholkar had taken the policy no. 892181713 from LIC under Non – Medical Scheme.

A scrutiny of the application for insurance reveals that all the questions regarding health had been answered negatively, which led the insurance company to believe that the deceased life assured was in good health at the time of applying for insurance. However the facts were to the contrary and the insurance company has certain documents which were produced to the forum and they indicate that the deceased life assured had undergone certain medical tests prior to the date of the proposal:-

◄LTMG Hospital case paper dated 27.04.2009 shows that deceased life assured was chronic alcoholic and was taking 1-2 quarters per day and this history was narrated by his relatives to the doctor.

◄Certificate of Treatment given by R.M.O., of LTMG Hospital, Mumbai shows that deceased life assured was chronic smoker and alcoholic.

◄Certificate of treatment given by Dr.Nilesh Purkar shows that deceased life assured had consulted him first time on 1/06/2006 for acute or chronic pancreatitis and had history of alcoholism.

This information was not disclosed by the deceased life assured in the proposal for information.

Let us find out whether there is any relation between alcoholism and Pancreatitis and cause of death i.e. Disseminated TB with diabetes.

Excessive alcohol can damage the immune system because the alcohol will prevent nutrients from feeding one's immune system. Additionally, the consumption of alcohol impairs the function of B-lymphocytes, which produce antibodies in the blood. These antibodies ward off viruses and other diseases that may attack the body. Stomach issues can develop with excess alcohol and the immune system will not be able to fight them off. Drinking alcohol leads to increase in stomach acid because the stomach must work harder to break the alcohol down. This acid can cause ulcers, liver problems (cirrhosis) and kidney disease. Normally, the white blood cells could fight off these conditions, but not when alcohol intake is high.

Pancreatitis is caused when the pancreas becomes inflamed and its cells are damaged. Heavy drinking can cause pancreatitis. Around seven out of 10 cases of chronic pancreatitis are due to long-term heavy drinking .And it's worse if a person smokes. Cigarettes are thought to increase the harmful effects of alcohol on the pancreas.Around half of people with chronic pancreatitis develop diabetes. This is because the damaged pancreas cannot make insulin (which is needed to regulate the blood sugar). It usually happens years after the pancreatitis diagnosis.

As far as Tuberculosis is concerned, it spreads from person through tiny droplets sputum that travel through the air. Although any one can become infected with TB, some people are at higher risk such as alcoholics and intravenous drug users, those who suffer from malnutrition, diabetics, cancer patients and those with HIV/AIDS or other immune system problems.

Thus in case of Mr. Arjun Dabholkar, in all probability, long –term heavy drinking is the main reason for Pancreatitis. Also having taken alcohol for 30 years had made his immune system weak which in turn might have led to TB. Thus the cause of death i.e Disseminated TB has nexus to the suppressed information i.e. alcoholism and chronic pancreatitis. Also the history of alcoholism recorded at the time of hospitalization which was given by the relatives can't be just set aside, because such information was given for the better management of the disease. Though the quantity of alcohol consumption may not be accurate as is disclosed by the relatives to the doctor, yet the fact remains that deceased life assured used to take alcohol that too for a longer period. Also , the leave record may not show any adverse leave taken on medical grounds, but the deceased life assured been employee of LTMG Hospital has taken treatment for pancreatitis from the same hospital and Dr. Nilesh Purkar 's certificate of treatment proves this fact. .Also Mr. Abhijeet, son of the deceased life assured has deposed that his father had on and off complaints of stomach pain which was not disclosed in the proposal form.

In the instant case, the life assured did not disclose the material facts about his alcoholism and pancreatitis and thereby denied an opportunity to L.I.C to take correct underwriting decision.

Thus LIC of India cannot be faulted for repudiating the claim of Smt. Anita Dabholkar for the full sum assured under the policy for non-disclosure of material information at the time of effecting the assurance and the forum finds no reason to intervene in the decision of repudiation by LIC .

****

Complaint No. LI – 456 (12-13)

Complainant: Smt. Sushma Raul
V/s
Respondent : Life Insurance Corporation of India

Award dated :20.06.2013

Shri Jaywant Raul had taken a New Bima Gold plan, policy no 925014319 from Life Insurance Corporation of India on 12.07.2010 for sum assured of Rs.1,50,000/-.Shri Jaywant Raul expired on 19.02.2011 due to Cardio Respiratory Arrest with Acute Liver Failure with Liver Cirrhosis and Bladder Cancer. When the claim was preferred by his wife Smt. Sushma Raul, Life Insurance Corporation of India repudiated the claim

LIC of India, however, stated that the aforesaid answers were false as they had evidence and reasons to believe that he was alcoholic from past 15 years and was also tobacco chewer from past 18 years . He did not, however, disclose these facts in his proposal form dated 12.07.2010.

During the course of hearing, the company representative had emphasized on the fact that deceased life assured was alcoholic since past 15 years and had produced certain medical papers which showed that deceased life assured had past history of alcoholism. The complainant had also agreed that her husband was in the habit of taking alcohol and also stated that he had reduced the quantity of his alcohol consumption from past 10 years.

The entire records pertaining to the case have been scrutinized. Shri Jaywant Raul was hospitalized on 11.02.2011 to Life Line Hospital with complaints of loose motion. The case history of Life Line Hospital shows that deceased life assured was chronic alcoholic but there was no significant past Medical or surgery history. The case papers of Tata Memorial Hospital dated 18.02.2011 shows deceased life assured was in the habit of taking alcohol for past 15 years and also had the habit of Chewing Tobacco since 18 years. Since cause of death has been mainly due to Acute liver failure and Liver Cirrhosis , let us find out whether there is any relation between alcoholism and these diseases:-

The liver cells can process only a certain amount of alcohol per hour. So, if one drinks alcohol faster than his liver can deal with it, the level of alcohol in the bloodstream rises. Drinking too much alcohol can lead to three types of liver conditions - fatty liver, hepatitis, and cirrhosis. Any, or all, of these conditions can occur at the same time in the same person.

Cirrhosis is a condition where normal liver tissue is replaced by scar tissue (fibrosis). The scarring tends to be a gradual process. The scar tissue affects the normal structure and regrowth of liver cells. Liver cells become damaged and die as scar tissue gradually develops. So, the liver gradually loses its ability to function well. The scar tissue can also affect the blood flow through the liver which can cause back pressure in the blood vessels which bring blood to the liver.It is seen that about 1 in 10 heavy drinkers will eventually develop cirrhosis. It tends to occur after 10 or more years of heavy drinking.

Acute Liver Failure occurs when liver cells are damaged significantly and no longer able to function.

Thus the cause of death i.e. Acute Liver Failure and Liver Cirrhosis of Mr. Jaywant Raul can be attributed to his past history of alcoholism.
Though there is no corroborative evidence to prove that deceased life assured was in the habit of taking alcohol and tobacco, but the history recorded at the time of hospitalization which was given by the patient himself can't be just set aside, because such information was given for the better management of the disease.

Thus LIC of India cannot be faulted for repudiating the claim of Smt. Sushma Raul for the full sum assured under the policy for non-disclosure of material information at the time of effecting the assurance and the forum finds no reason to intervene in the decision of repudiation by LIC .

****

Complaint No. LI – 505 (12-13)

Complainant: Smt. Subbamma Konar
V/s
Respondent : Life Insurance Corporation of India

Award dated : 09.07.2013

The complainant had taken policy no 885150224 from Life Insurance Corporation of India for sum assured of Rs.75,000/-.The date of commencement of the policy is 08.10.2009. Shri Muthiah Konar expired on 20.7.2010 due to Cardio Respiratory Arrest with Pulmonary Tuberculosis .

When the claim was preferred by his wife Smt. Subbamma Konar, Life Insurance Corporation of India repudiated.

LIC of India stated that they had evidence and reasons to believe that he was known case of Retroviral disease since October 2009 i.e. prior to the date of proposal. He did not, however, disclose these facts in his proposal form dated 31.08.2009

Aggrieved by their decision Smt. Subbamma Konar approached the Office of the Insurance Ombudsman seeking intervention of the Ombudsman in the matter for settlement of her claim.
After perusal of the records, parties to dispute were called for hearing.

The complainant had authorized her son Mr. Raja Konar to depose before the Ombudsman. He stated that his father was in good health at the time of proposal. On 8th October, 2009, he was taken to MGM Hospital for treatment for fever and loose motion. After undergoing various tests, on 10.04.2010 he was found to be suffering from retroviral disease.

LIC of India representatives submitted that Certificate of treatment given by Dr. Mahendra Kumar on 19.11.2010 shows that deceased life assured was suffering from cough and fever since 6 months which he had not disclosed in the proposal form. On the basis of non-disclosure of material information, claim was repudiated by LIC. Ombudsman informed the company representative that leave record given by the employer of deceased life assured does not show any adverse leave taken on health grounds, to this Mrs. Kanvinde agreed but she also stated that deceased life assured had taken leave on and off though not on medical grounds. Ombudsman also raised a query whether they have any evidence to prove that deceased life assured being aware of his illness had taken policy with fraudulent intention, Mrs. Kanvinde said that no such evidence is available with them.

On hearing the deposition of both the parties to dispute, Ombudsman observed the following:-

1) **OPD Case papers of Mahatma Gandhi Hospital dated 21/06/2010 shows "k/c/o RVD since Oct 2009, since 6-7 months" . Thus it is not clear whether deceased life assured suffered from RVD since Oct 2009 or prior to that .**
2) **Leave record of deceased life assured does not show any leave taken on medical grounds since 3 years prior to the date of proposal.**
3) **The documents produced to the forum indicates that medical was done at the time of proposal and there is no adverse remark made by the medical examiner regarding the health of the deceased life assured.**
4) **Though the Certificate of treatment given by Dr. Mahendra Kumar indicates that deceased life assured had cough and fever since 6 months which may be related to cause of death i.e. Pulmonary Koch, however no test was undergone by him to prove that he was suffering from Pulmonary Koch's and RVD. Thus he himself might not be aware that he was suffering from these ailments. Hence , deceased life assured had fraudulent intention in suppressing the facts about his disease cannot be concluded. LIC has also not produced any evidence to prove by way of medical reports, hospital case papers, prescriptions to show that deceased life assured had suffered from RVD**

prior to the date of death. Also the discharge summary of MGM Hospital shows no past history of TB.

Under these circumstances the repudiation of claim by LIC cannot be justified and LIC was directed to pay sum assured of Rs. 75000/- to the claimant Mrs.Subbamma Konar under policy no. 885150224 along with penal interest from the date of submission of the claim till date of payment of claim within 7 working days.

****

Complaint No.LI- 619 (2013-2014)
Complainant: Smt. Samiksha Shinde
v/s.
Respondent: LIC of India.

Award : 13.08.2013

Shri Deepak Shinde had taken Jeevan Saral Plan from LIC of India, policy no .being 907559724 on 09.10.2009 for a sum assured of Rs. 4,00,000/-. After the death of Shri Deepak Shinde on 06.07.2011, his wife Mrs. Samiksha Shinde preferred the claim to the insurer. The Insurer repudiated the claim on account of the deceased having suppressed material information regarding his health at the time of effecting the assurance.
LIC stated that they had evidence and reasons to believe that before he proposed for the above policy, he had suffered from Chronic Obstructive Pulmonary Disorder for last 3-4 years i.e. prior to the date of commencement. These facts were not disclosed at the time of proposal and instead he gave false answers in the proposal form.
Aggrieved by their decision Smt. Samiksha Shinde , wife of the deceased life assured approached the Office of the Insurance Ombudsman seeking intervention in the matter for settlement of his claim. The parties to dispute were called for hearing .

On hearing the deposition of both the parties to dispute and on perusal of the documents the forum observed that the policy was issued to Mr. Deepak Shinde on the basis of information given by him in the proposal form and also on the basis of Medical reports viz. FMR, ECG, Lipidogram, Blood Sugar Tolerance Report and Physician's Report. Mr. Deepak Shinde had very specifically stated at the end of Physician's Report that "I do not have diabetes, BP or any disease or operation". Mr. Deepak Shinde expired on 06.07.2011 due to Hemoptysis.
On going through the proposal form, it is seen that all the questions relating to health were answered negatively by Mr. Deepak Shinde which gave an impression that deceased life assured was in good health at the time of proposal. However from the Certificate of treatment given by Dr. Vijay Kulkarni it is observed that Mr. Deepak Shinde had consulted him for the first time in 1980 for Sinusitis and Bronchitis. This certificate also reveals that deceased life assured had suffered from Pulmonary Kochs 12 years back and from last 3-5 years, he was suffering from fever, cough, headache, breathlessness, gout, joint pain. The

same doctor had also submitted Medical Attendant's Certificate - Claim Form B wherein he had stated that deceased life assured had suffered from COPD since 1-2 years. Since Dr. Vijay Kulkarni had given two different period of illness suffered by deceased life assured i.e. in the Medical Attendant's Certificate - Claim Form B and Certificate of treatment/Consultation, the insurer called for explanation from the doctor to give the exact period of illness. On 17.1.2012, Dr. Vijay Kulkarni issued a Certificate which states that "Late Shri Deepak Sahu Shinde was my patient for 30 years. He was suffering from C.O.P.D for last 3-4 years. The disease is known for remission and exacerbation. His disease was under control by regular use of inhaled steroids and bronchodilators." The insurer has also submitted a copy of letter dated 24.02.2012 given by Mrs. Samiksha Shinde wherein she has informed LIC that her husband was taking Inhaler as and when necessary from last 3-4 years.

Let us find out the meaning of various illnesses suffered by Mr. Deepak Shinde:-

C.O.P.D:- Chronic Obstructive Pulmonary Disease is a progressive disease that makes it hard to breathe. COPD can cause coughing that produces large amounts of mucus, wheezing, shortness of breath, chest tightness and other symptoms.

Hemoptysis is coughing up of blood or blood stained sputum from bronchi, larynx, trachea or lungs.

Thus from the above documents, it is evident that deceased life assured had a long standing lung disorder that had manifested to more complicated ailments i.e. COPD prior to the date of proposal but the same was not disclosed in the proposal for insurance. Also the cause of death has nexus to the suppressed information.

Under these circumstances, this Forum has no valid reason to intervene with the decision of LIC to repudiate the claim of Smt. Samiksha Shinde for payment of policy monies under the policy held by her deceased husband Shri. Deepak Shinde.

****

Complaint No. LI – 1888 (12-13)

Complainant: Ms. Jyoti Pandey
V/s
Respondent : Bajaj Allianz Life Insurance Company Ltd.

Award dated 19.08.2013

Dr. Kishore Ghose had taken a Bajaj Allianz Max Advantage Insurance Plan, policy no 0213123023 from Bajaj Allianz Life Insurance Company Ltd for sum assured of Rs.7.00 lakhs -.The date of commencement of the policy was 27.04.2011 .Dr. Kishore Ghose expired on 26.04.2012 due to Pulmonary Edema with Allergic to Quinine with Quinine

drip. When the claim was preferred Ms. Jyoti Pandey, Bajaj Allianz Life Insurance Company Ltd repudiated the claim vide their letter dated 16.11.2012. The basis for such decision was that at the time of proposal for assurance dated 28.03.2011, the life assured had answered the relevant sub-questions relating to health negatively , which led the insurer to believe that he was in good health at the time of proposal. Bajaj Allianz Life Insurance Company Ltd., however, stated that the aforesaid answers were false as they had evidence and reasons to believe that before he proposed for the above policy he was suffering from Diabetes Mellitus since 5 years and was under regular medication for the same. He did not, however, disclose these facts in his proposal form. Instead he gave false answers therein as stated above. It is, therefore, evident that he made deliberate incorrect statements and withheld correct information regarding his health at the time of effecting the assurance and hence in terms of the policy contract and the declarations contained in the form of Proposal for Assurance, the claim was repudiated for full assured . However insurer paid the fund value of Rs. 67,565/- to Ms. Jyoti Pandey .

Aggrieved by their decision Smt. Jyoti Pandey approached the Office of the Insurance Ombudsman seeking intervention of the Ombudsman in the matter for settlement of her claim.

After perusal of the records, parties to the dispute were called for a hearing .During the deposition, Ms. Jyoti had deposed that medical of Dr. Ghose was done at the time of proposal and she had accompanied him during those test and various test viz blood, urine, ECG was done by Dr. Narendra Patil, panel doctor of Bajaj Allianz Life Insurance Company Ltd. She stated that if Dr. Ghose had diabetes it would have been revealed in the blood test. She stated that he had worked as Medical Director and CEO in many reputed hospitals in India as well as aboard and was having an annual income of Rs. 1 crore and so he would not lie while taking an insurance policy for a small amount of Rs. 7 lakhs .She stated that Dr. Ghose did not die of diabetes but the cause of death was Malaria. She stated that he was working in Liberia and also had health insurance policy from Allianz Worldwide Care Ltd .Had he been diabetic, Allianz would not have given him policy. Also before going to Liberia, all medical test was done and since these reports did not reveal anything adverse, he was allowed to work abroad. She stated that the insurance company should have called for treatment papers from St. Joseph's Catholic Hospital where he breathe his last to confirm whether he was diabetic or not. Ombudsman informed her that Discharge Summary of Ruby Hall Clinic dated 03.06.2011 shows that he was known case of diabetes and was on treatment since 5 years and on the basis of this summary Bajaj Allianz Life Insurance Company Ltd. had repudiated her claim. She accepted that Dr. Ghose was admitted to Ruby Hall Clinic for removal of Gall Bladder Stones but she is not aware as to who has given this history of diabetes. Ombudsman had directed the company to submit to the forum copy of Medical Reports done at the time of proposal, Copy of case papers/medical records of treatment taken by deceased life assured in St. Joseph's Catholic Hospital during his last illness and to collect copies of medical reports of deceased life assured done at the time of taking health policy from Allianz World wide Care Ltd. The company representative before deposition on 05.08.2013 had submitted the copy of Medical reports of Dr. Ghose done at the time of proposal. He also submitted letter from company dated 05.08.2013 wherein they have stated that it

was not possible for them to collect Medical reports from St. Joseph Catholic Hospital and Allianz World wide Care Ltd. He stated that had deceased life assured who was 57 years at the time of proposal, disclosed that he was suffering from Diabetes, they would have denied insurance to him as per their underwriting rules. Ombudsman asked him since Blood Sugar test was done at the time of proposal, how Diabetes was not revealed in this report, to this the company representative stated that Diabetes can be well controlled through medication and since Dr. Ghose was from medical field he might have taken proper precaution before the medical examination. When Ombudsman asked him who gave the health history of Dr. Kishore during his admission in Ruby Hospital, he stated that he was not sure, but probably the patient himself or his relative might have given the information to the doctor.

A scrutiny of the application for insurance reveals that all the questions regarding health has been answered as 'No', which implies that he was in good health at the time of applying for insurance. However on investigating the claim, the insurer found from the Discharge Summary of Ruby Hall Clinic dated 03.06.2011 that deceased life assured was known case of Diabetes Mellitus since 5 years and was on regular treatment. The discharge summary does not specify the name of the person who has given the health history of Dr. Kishore to the hospital authorities. The company has also not made any effort to find out this detail though it was an important fact which was overlooked by the investigating team. The various medical test done during his admission in Ruby Hospital shows Urine ALB+++ and Blood Sugar as 220 which is higher than the normal level. This discharge summary also shows that he was treated with inj.Actrapid16 units BBF, 16 units BL, 16 before dinner, inj Lantus 14 units at bedtime.

Diabetes Mellitus is a Chronic and potentially Life threatening condition where the body loses its ability to produce insulin, resulting in blood glucose levels that are too high. Excess glucose in the blood can damage the eyes, kidneys and nerves. Diabetes can also cause heart disease and stroke.

It is also known fact that Insulin injection is used to control blood sugar in people who have diabetes that cannot be controlled with oral medications alone.
In this case also Dr. Kishore Ghose who seems to be suffering from diabetes was given insulin injection, probably because his blood sugar was fairly high to be controlled by oral medication.

The question before the forum is whether the repudiation on the part of the insurer was justified since there was no nexus between cause of death and suppressed information. My answer to this question is 'Yes' for the following reasons:.

1) **Since an insurance policy is a contract entered between the parties in Utmost Good faith, life assured is bound to disclose honestly and truthfully to all questions in the proposal form. Any violation of its terms and conditions by the insured entitles an insurance company to repudiate the claim.**

2) **In a contract of insurance, any fact which would influence the mind of a prudent insurer in deciding whether to accept or not to accept the risk is a "material fact". If the proposer has knowledge of such fact, he is obliged to disclose the same, particularly while answering questions in the proposal form and also to the Medical Examiner of the insurer. Any inaccurate answer will lead to adverse selection of life. In this case also disclosure of diabetes suffered by Mr. Ghose was material fact since the underwriting rules of the company denies insurance to person aged 57 and above with history of diabetes.**

3) **If I go by the fundamental principles of Insurance, insurance companies have to provide insurance cover to persons depending on the present health conditions and their expectancy of life should confirm to the standard obtaining for healthy lives. The life insurance contracts go by the law of large numbers and law of probability of a death/illness happening at any given point of time. In short it is a pooling of contribution by way of premiums by all insured lives and this pool is utilized to take care of the loss of a few individuals. Thus in this process, insurer cannot be expected to bear a liability which occurs within 2 years of the commencement of Insurance cover. If for any reason early death claim is reported and the insurer comes across evidence for suppression of material facts, the insurer can invoke Section 45 of the Insurance Act and call the policy into question.**

4) **The allegation of the complainant Ms. Jyoti Pandey that deceased life assured has not voluntarily taken the insurance cover and he had taken the policy on insistence of the employees of the insurance company is not justified. Dr. Kishore Ghose being educated person should have understood the terms and conditions of the policy. A person who signs a proposal form is totally responsible for the contents in the document and he/she cannot plead ignorance of the same. Even if medical examination is conducted at the time of proposal, it does not relieve the proposer from his duties of disclosure of material facts. Had deceased life assured, disclosed that he was suffering from diabetes, the insurer's underwriting decision could have been different.**

Thus Bajaj Allianz Life Insurance Company Ltd. cannot be faulted for repudiating the claim of Smt. Jyoti Pandey for the full sum assured under the policy held by Dr. Kishore Ghose for non-disclosure of material information at the time of effecting the assurance and the forum finds no reason to intervene in the decision of repudiation by Bajaj Allianz Life Insurance Company Ltd. .

****

BEFORE THE INSURANCE OMBUDSMAN
(MAHARASHTRA & GOA)
MUMBAI
Complaint No. LI- 560(2012-2013)
Complainant :Shri Kishor C. Shah
V/s
Respondent : India First Life Insurance Co. Ltd

Award dated 21.06.2013

Smt Pinky Shah had taken India First Smart Save Plan, policy no. 10277185 from India First Life Insurance Co.Ltd . The date of commencement of the policy is 09/03/2012 and the sum assured is Rs. 2.00 lakhs. Smt Pinky Shah expired on 20.03.2012. The nominee under the policy, Mr. Kishor Shah, brother-in-law of the deceased life assured had submitted a claim to India First Life Insurance Co.Ltd . The company, vide their letter dated 16.05.2012 repudiated all liability under the policy on account of the deceased life assured having withheld correct information regarding the health at the time of effecting the assurance. The basis for such decision was at the time of proposal dated 16.03.2012 signed by the Assured, she had answered negatively to the questions relating to her health condition.

Not satisfied by their decision, Shri Kishor Shah approached the Office of the Insurance Ombudsman seeking intervention in the matter for settlement of the claim.

After perusal of the records, parties to the dispute were called for a hearing . During the course of hearing,The company representative had stated that since the proposal was signed on 16.03.2012 and Mrs.Pinky Shah expired on 20.03.2012, it proves that deceased life assured was seriously ill at the time of proposal. To this the forum pointed out as how a seriously ill person can come to the bank and sign the proposal papers and how the Bank Manager had not taken cognizance of this fact while canvassing insurance policy to her, to this the company representative stated that on the physical appearance of the person, it would not be possible to detect that she was suffering from Viral Pneumonia. He further stated that both pneumonia and TB are diseases related to lungs and the symptoms are not visible. The forum asked them since deceased life assured was suffering from pneumonia , she might be coughing when she would have gone to the bank and why the Bank Manager didn't question her on this , to this the company representative stated that the coughing would be have been suppressed through cough syrup for an hour . If the deceased life assured would have disclosed the past history of TB, the company would have called for special reports before accepting the risk. The forum also raised a query as to why the policy was issued on 24.03.2012 when the policyholder had paid the premium on 09.03.2012, to this the company representative

stated that usually the date of proposal is taken as the date of issue of policy, however for unit linked policies, the date of payment of proposal deposit is taken as the date of issue of policy so that the policyholder would get the benefit of NAV.

It is observed that Mr. Kishor Shah and his family had a Account with Bank of Baroda and the Manager of the bank had insisted them to take policy no. 10277185 on the life of his sister-in-law Mrs.Pinky Shah .Mrs. Pinky Shah expired on 20.03.2012 due to Viral Pneumonia with septic shock. They had paid the premium on 09.03.2012; proposal form was filled on 16.03.2012 whereas they received the policy document on 24.03.2012 i.e. after the death of Mrs. Pinky Shah. When Mr. Kishor Shah preferred the claim to the company it was denied by them stating that deceased life assured had suppressed the history of Tuberculosis, Jaundice and pneumonia.

Now let us examine the details of various treatment taken by late Mrs Pinky Shah as brought out by the documents submitted to the forum :-

◄Case History Sheet of Bhatia Hospital where deceased life assured was admitted on 19.03.2012 shows history of Jaundice.

◄deceased life assured was also admitted to Bhatia Hospital on 11.01.2011 for gastroenteritis. Case History Sheet of Bhatia Hospital with date of admission is 11.01.2011, shows:

H/O Pneumonia and Jaundice in the past

H/O TB 8 years back taken treatment for 9 months

All the above data indicates that deceased life assured had suffered from TB,Pneumonia and Jaundice and had taken treatment for the same prior to the date of proposal. It is imperative for deceased life assured to have mentioned about her true health condition and hospitalization in the application for insurance. Had the deceased life assured disclosed the correct information about her health, the Insurer would have called for relevant medical reports and would have taken appropriate underwriting decision. Though Mr. Mukesh Shah, husband of the deceased life assured deposed that his wife as signed on the blank proposal form and the details were filled in by the agent,the forum is of the opinion that the deceased life assured should have checked whether the details filled by the agent in the proposal forms are true and correct. This is essential as once the life assured signs on the proposal form, it becomes binding on her and she becomes responsible for the contents filled in the form. It is also observed that India First Life Insurance had paid a fund value of Rs. 10805.33 ,the policy being Unit Linked plan. In view of the above, insurer cannot be faulted for denying the policy monies to the claimant Shri Kishor Shah. If the complainant is not satisfied with this order, he is free to approach any other Forum /Court for redressal of his grievance, if he deem fit.

****

Complaint No. LI – 295 (2012 – 2013)

Complainant: Smt. Meena Arun Sao

V/s

Respondent : SBI Life Insurance Company Ltd.

Award dated : 19.06.2013

Shri Arun Sao had taken life insurance policy from SBI Life Insurance Company Ltd. When Mr. Arun Sao expired on 28/08/2010, his wife Smt. Meena Sao preferred the claim to SBI Life Insurance Company Ltd. The Insurer repudiated the claim vide their letter dated 01/03/2011 on account of the deceased life assured having suppressed material information regarding his health at the time of effecting the assurance.
SBI Life Insurance Company Ltd. stated that they hold evidence and reasons to believe that the deceased life assured was suffering from Diabetes Mellitus prior to the date of proposal .During the claim investigation process ,the company received Blood Test reports from Central Government Health Scheme stating that the deceased life assured was suffering from diabetes since 29.8.2009

The documents received by the parties to the dispute were perused and the analysis of the entire case reveals that Shri Arun Sao had taken housing loan from SBI as he had purchased a flat in Amravati. The Bank Manager had canvassed him an insurance plan Dhanaraksha Plus LPPT Group and according policy no . 93000000507 was allotted to him. The risk cover under the above policy is of diminishing nature and the sum assured tapers down as the EMI's are paid off. After paying one annual premium under the above policy, Mr. Arun Sao expired on 28.08.2010 .The immediate cause of death as shown in the cause of death certificate is Acute Respiratory Distress Syndrome and Multiorgan Dysfunction syndrome and antecedent cause and other significant conditions contributing to the death but not related to the disease or conditions causing it is mentioned as Plasmodium Vivax Malaria and Type II Diabetes Mellitus respectively.

A scrutiny of the application for insurance reveals that all the questions regarding health had been answered negatively, which led the insurance company to believe that the deceased life assured was in good health at the time of applying for the insurance. However the facts were to the contrary and the insurance company has certain documents which were produced to the forum and they indicate that the deceased life assured had undergone certain medical tests prior to the date of the proposal:-

◄Blood Sugar Test Report dated 29.08.2009 of Central Government Health Scheme shows Blood Sugar Fasting as 136mgm and Blood Sugar Post lunch as 211mgm which is higher than the normal level of sugar in blood.

◄ Blood Sugar Test Report dated 12.12.2009 of Central Government Health Scheme shows Blood Sugar Fasting as 124mgm and Blood Sugar post lunch as 161mgm which signifies elevated level of sugar in blood.

◄There is also certificate from Dr. J.S. Khandare dated 01.02.2011 which states that "This is to certify that Mr. Arun V. Sao is Central Govt. employee was taking Rx from C.G.H.S.Wellness centre Koliwada for DM and Hypertension since 21.08.2009.

◄Dr. Vijay Mukne has certified on 02.02.2011 that deceased life assured was known to him since last 2 years and he was known case of Diabetes with Hypertension since 1 year.

The various documents produced before the forum clearly prove that the deceased life assured had suffered from Diabetes Mellitus prior to the application for insurance. It is imperative for the deceased life assured to have mentioned about his true health condition in the application for insurance.

It is also a fact, in good number of cases of life insurance the proposer simply signs on the dotted lines in the proposal form and all columns are filled in by the agent and even in this case the forum has a doubt whether the SBI Bank Manager who has canvassed the policy in dispute has elicited full information from the life to be assured. Though the forum cannot fully absolve the life to be assured from his responsibility to be truthful to the contract, we are not able to buy the defence of SBI Life Insurance Company Ltd. that the suppression was intentional and fraudulent because of the following reasons:-

1) **Deceased life assured had approached SBI for housing loan wherein he was given insurance to cover his housing loan. He had not approached the insurer for insurance cover but insurance was sold to him as a part of housing loan.**

2) **The company in their written submission dated 11.06.2013 has stated that Life Assured died within span of less than seven months which indicates that he was suffering from some serious ailment which could have come to light if there was detailed medical examination at the time of proposal. The forum is of the opinion that a person who is seriously ill and has limited resources will not go for housing loan. Rather he would first spend his money on betterment of his health.**

3) **Leave certificate of deceased life assured given by Central Government CPWD produced by the complainant does not show any adverse medical leave taken. The company has also not made any effort to collect the leave record of deceased life assured from his employer .Certificate given by CPWD also shows that life assured has not availed of any significant leave on health grounds and as such it does not validate company's contention of deceased life assured's suffering from any serious illness which he did not disclose.**

4) **There is no nexus between cause of death i.e. Acute Respiratory Distress Syndrome with Multi organ Dysfunction syndrome and Vivax Malaria and the suppressed information i.e. Diabetes Mellitus.**

Hence the decision of SBI Life Insurance Co.Ltd to repudiate the claim of Smt. Meena Sao for the full sum assured under Policy No. 93000000507 on the life of Late Shri Arun Sao is set aside and SBI Life Insurance Company Ltd. is directed to pay 50% of the

sum assured to the claimant on Ex-gratia basis. There is no order for any other relief. The case is disposed off accordingly.

****